

HOUSE SUBSTITUTE
FOR
SENATE BILL NO. 966
AN ACT

2 To repeal sections 285.300, 288.030, 288.032,
3 288.034, 288.036, 288.038, 288.040, 288.050,
4 288.060, 288.070, 288.090, 288.100, 288.110,
5 288.120, 288.121, 288.122, 288.128, 288.290,
6 288.310, 288.330, 288.380, 288.381, 288.382,
7 and 288.500, RSMo, and to enact in lieu
8 thereof thirty-one new sections relating to
9 employees, with penalty provisions and an
10 emergency clause.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
12 AS FOLLOWS:

13 Section A. Sections 285.300, 288.030, 288.032, 288.034,
14 288.036, 288.038, 288.040, 288.050, 288.060, 288.070, 288.090,
15 288.100, 288.110, 288.120, 288.121, 288.122, 288.128, 288.290,
16 288.310, 288.330, 288.380, 288.381, 288.382, and 288.500, RSMo,
17 are repealed and thirty-one new sections enacted in lieu thereof,
18 to be known as sections 285.300, 288.030, 288.032, 288.034,
19 288.036, 288.038, 288.040, 288.045, 288.050, 288.060, 288.070,
20 288.090, 288.100, 288.110, 288.120, 288.121, 288.122, 288.128,
21 288.175, 288.290, 288.310, 288.330, 288.380, 288.381, 288.382,
22 288.395, 288.397, 288.398, 288.500, 288.501, and 288.502, to read
23 as follows:

24 285.300. 1. Every employer doing business in the state
25 shall require each newly hired employee to fill out a federal W-4

1 withholding form. A copy of each withholding form or an
2 equivalent form containing data required by section 285.304 which
3 may be provided in an electronic or magnetic format, shall be
4 sent to the department of revenue by the employer within twenty
5 days after the date the employer hires the employee or in the
6 case of an employer transmitting a report magnetically or
7 electronically, by two monthly transmissions, if necessary, not
8 less than twelve days nor more than sixteen days apart. For
9 purposes of this section, the date the employer hires the
10 employee shall be the earlier of the date the employee signs the
11 W-4 form or its equivalent, or the first date the employee
12 reports to work, or performs labor or services. Such forms shall
13 be forwarded by the department of revenue to the division of
14 child support enforcement on a weekly basis and the information
15 shall be entered into the database, to be known as the "State
16 Directory of New Hires". The information reported shall be
17 provided to the National Directory of New Hires established in 42
18 U.S.C. section 653, other state agencies or contractors of the
19 division as required or allowed by federal statutes or
20 regulations. The division of employment security shall cross-
21 check Missouri unemployment compensation recipients against any
22 federal new hire database or any other database containing
23 Missouri or other states' wage information which is maintained by
24 the federal government on a weekly basis. The division of
25 employment security shall cross-check unemployment compensation

1 applicants and recipients with Social Security Administration
2 data maintained by the federal government on the most frequent
3 basis recommended by the United States Department of Labor, or
4 absent a recommendation, at least monthly. Effective January 1,
5 2007, the division of employment security shall cross-check at
6 least monthly unemployment compensation applicants and recipients
7 with department of revenue drivers license databases.

8 2. Any employer that has employees who are employed in two
9 or more states and transmits reports magnetically or
10 electronically may comply with subsection 1 of this section by:

11 (1) Designating one of the states in which the employer has
12 employees as the designated state that such employer shall
13 transmit the reports; and

14 (2) Notifying the secretary of Health and Human Services of
15 such designation.

16 288.030. 1. As used in this chapter, unless the context
17 clearly requires otherwise, the following terms mean:

18 (1) "Appeals tribunal" [means], a referee or a body
19 consisting of three referees appointed to conduct hearings and
20 make decisions on appeals from administrative determinations,
21 petitions for reassessment, and claims referred pursuant to
22 subsection 2 of section 288.070;

23 (2) "Base period" [means], the first four of the last five
24 completed calendar quarters immediately preceding the first day
25 of an individual's benefit year;

1 (3) "Benefit year" [means]_ the one-year period beginning
2 with the first day of the first week with respect to which an
3 insured worker first files an initial claim for determination of
4 such worker's insured status, and thereafter the one-year period
5 beginning with the first day of the first week with respect to
6 which the individual, providing the individual is then an insured
7 worker, next files such an initial claim after the end of the
8 individual's last preceding benefit year;

9 (4) "Benefits" [means]_ the money payments payable to an
10 insured worker, as provided in this chapter, with respect to such
11 insured worker's unemployment;

12 (5) "Calendar quarter" [means]_ the period of three
13 consecutive calendar months ending on March thirty-first, June
14 thirtieth, September thirtieth, or December thirty-first;

15 (6) "Claimant" [means]_ an individual who has filed an
16 initial claim for determination of such individual's status as an
17 insured worker, a notice of unemployment, a certification for
18 waiting week credit, or a claim for benefits;

19 (7) "Commission" [means]_ the labor and industrial
20 relations commission of Missouri;

21 (8) "Common paymaster" [means]_ two or more related
22 corporations in which one of the corporations has been designated
23 to disburse remuneration to concurrently employed individuals of
24 any of the related corporations;

25 (9) "Contributions" [means]_ the money payments to the

1 unemployment compensation fund required by this chapter,
2 exclusive of interest and penalties;

3 (10) "Decision" [means]_ a ruling made by an appeals
4 tribunal or the commission after a hearing;

5 (11) "Deputy" [means]_ a representative of the division
6 designated to make investigations and administrative
7 determinations on claims or matters of employer liability or to
8 perform related work;

9 (12) "Determination" [means]_ any administrative ruling
10 made by the division without a hearing;

11 (13) "Director" [means]_ the administrative head of the
12 division of employment security;

13 (14) "Division" [means]_ the division of employment
14 security which administers this chapter;

15 (15) "Employing unit" [means]_ any individual,
16 organization, partnership, corporation, common paymaster, or
17 other legal entity, including the legal representatives thereof,
18 which has or, subsequent to June 17, 1937, had in its employ one
19 or more individuals performing services for it within this state.
20 All individuals performing services within this state for any
21 employing unit which maintains two or more separate
22 establishments within this state shall be deemed to be employed
23 by a single employing unit for all the purposes of this chapter.
24 Each individual engaged to perform or to assist in performing the
25 work of any person in the service of an employing unit shall be

1 deemed to be engaged by such employing unit for all the purposes
2 of this chapter, whether such individual was engaged or paid
3 directly by such employing unit or by such person, provided the
4 employing unit had actual or constructive knowledge of the work;

5 (16) "Employment office" [means]_ a free public employment
6 office operated by this or any other state as a part of a state
7 controlled system of public employment offices including any
8 location designated by the state as being a part of the one-stop
9 career system;

10 (17) "Equipment" [means]_ a motor vehicle, straight truck,
11 tractor, semi-trailer, full trailer, any combination of these and
12 any other type of equipment used by authorized carriers in the
13 transportation of property for hire;

14 (18) "Fund" or "unemployment compensation trust fund"
15 [means]_ the unemployment compensation fund established by this
16 chapter;

17 (19) "Governmental entity" [means]_ the state, any
18 political subdivision thereof, any instrumentality of any one or
19 more of the foregoing which is wholly owned by this state and one
20 or more other states or political subdivisions and any
21 instrumentality of this state or any political subdivision
22 thereof and one or more other states or political subdivisions;

23 (20) "Initial claim" [means]_ an application, in a form
24 prescribed by the division, made by an individual for the
25 determination of the individual's status as an insured worker;

1 (21) "Insured work" [means], employment in the service of
2 an employer;

3 (22) (a) As to initial claims filed after December 31,
4 1990, "insured worker" [means], a worker who has been paid wages
5 for insured work in the amount of one thousand dollars or more in
6 at least one calendar quarter of such worker's base period and
7 total wages in the worker's base period equal to at least one and
8 one-half times the insured wages in that calendar quarter of the
9 base period in which the worker's insured wages were the highest,
10 or in the alternative, a worker who has been paid wages in at
11 least two calendar quarters of such worker's base period and
12 whose total base period wages are at least one and one-half times
13 the maximum taxable wage base, taxable to any one employer, in
14 accordance with [subdivision (1)] subsection 2 of section
15 288.036. For the purposes of this definition, "wages" shall be
16 considered as wage credits with respect to any benefit year, only
17 if such benefit year begins subsequent to the date on which the
18 employing unit by which such wages were paid has become an
19 employer;

20 (b) As to initial claims filed after December 31, 2004,
21 wages for insured work in the amount of one thousand two hundred
22 dollars or more, after December 31, 2005, one thousand three
23 hundred dollars or more, after December 31, 2006, one thousand
24 four hundred dollars or more, after December 31, 2007, one
25 thousand five hundred dollars or more in at least one calendar

1 quarter of such worker's base period and total wages in the
2 worker's base period equal to at least one and one-half times the
3 insured wages in that calendar quarter of the base period in
4 which the worker's insured wages were the highest, or in the
5 alternative, a worker who has been paid wages in at least two
6 calendar quarters of such worker's base period and whose total
7 base period wages are at least one and one-half times the maximum
8 taxable wage base, taxable to any one employer, in accordance
9 with subsection 2 of section 288.036;

10 (23) "Lessor", in a lease, [means], the party granting the
11 use of equipment, with or without a driver to another;

12 (24) "Misconduct", an act of wanton or willful disregard of
13 the employer's interest, a deliberate violation of the employer's
14 rules, a disregard of standards of behavior which the employer
15 has the right to expect of his or her employee, or negligence in
16 such degree or recurrence as to manifest culpability, wrongful
17 intent or evil design, or show an intentional and substantial
18 disregard of the employer's interest or of the employee's duties
19 and obligations to the employer;

20 (25) "Referee" [means] a representative of the division
21 designated to serve on an appeals tribunal;

22 [(25)] (26) "State", includes, in addition to the states of
23 the United States of America, the District of Columbia, Puerto
24 Rico, the Virgin Islands, and the Dominion of Canada;

25 [(26)] (27) "Temporary help firm", a firm that hires its

1 own employees and assigns them to clients to support or
2 supplement the clients' workforce in work situations such as
3 employee absences, temporary skill shortages, seasonal workloads,
4 and special assignments and projects;

5 (28) "Temporary employee", an employee assigned to work for
6 the clients of a temporary help firm;

7 (29) (a) An individual shall be deemed "totally
8 unemployed" in any week during which the individual performs no
9 services and with respect to which no wages are payable to such
10 individual;

11 (b) An individual shall be deemed "partially unemployed" in
12 any week of less than full-time work if the wages payable to such
13 individual for such week do not equal or exceed the individual's
14 weekly benefit amount plus twenty dollars;

15 (c) An individual's "week of unemployment" shall begin the
16 first day of the calendar week in which the individual registers
17 at an employment office except that, if for good cause the
18 individual's registration is delayed, the week of unemployment
19 shall begin the first day of the calendar week in which the
20 individual would have otherwise registered. The requirement of
21 registration may by regulation be postponed or eliminated in
22 respect to claims for partial unemployment or may by regulation
23 be postponed in case of a mass layoff due to a temporary
24 cessation of work;

25 [(27)] (30) "Waiting week" [means], the first week of

1 unemployment for which a claim is allowed in a benefit year or if
2 no waiting week has occurred in a benefit year in effect on the
3 effective date of a shared work plan, the first week of
4 participation in a shared work unemployment compensation program
5 pursuant to section 288.500.

6 2. The Missouri average annual wage shall be computed as of
7 June thirtieth of each year, and shall be applicable to the
8 following calendar year. The Missouri average annual wage shall
9 be calculated by dividing the total wages reported as paid for
10 insured work in the preceding calendar year by the average of
11 mid-month employment reported by employers for the same calendar
12 year. The Missouri average weekly wage shall be computed by
13 dividing the Missouri average annual wage as computed in this
14 subsection by fifty-two.

15 288.032. 1. After December 31, 1977, "employer" means:

16 (1) Any employing unit which in any calendar quarter in
17 either the current or preceding calendar year paid for service in
18 employment wages of one thousand five hundred dollars or more
19 except that for the purposes of this definition, wages paid for
20 "agricultural labor" as defined in paragraph (a) of subdivision
21 (1) of subsection 12 of section 288.034 and for "domestic
22 services" as defined in subdivisions (2) and [(12)] (13) of
23 subsection 12 of section 288.034 shall not be considered;

24 (2) Any employing unit which for some portion of a day in
25 each of twenty different calendar weeks, whether or not such

1 weeks were consecutive, in either the current or the preceding
2 calendar year, had in employment at least one individual
3 (irrespective of whether the same individual was in employment in
4 each such day); except that for the purposes of this definition,
5 services performed in "agricultural labor" as defined in
6 paragraph (a) of subdivision (1) of subsection 12 of section
7 288.034 and in "domestic services" as defined in subdivisions (2)
8 and ~~[(12)]~~ (13) of subsection 12 of section 288.034 shall not be
9 considered;

10 (3) Any governmental entity for which service in employment
11 as defined in subsection 7 of section 288.034 is performed;

12 (4) Any employing unit for which service in employment as
13 defined in subsection 8 of section 288.034 is performed during
14 the current or preceding calendar year;

15 (5) Any employing unit for which service in employment as
16 defined in paragraph (b) of subdivision (1) of subsection 12 of
17 section 288.034 is performed during the current or preceding
18 calendar year;

19 (6) Any employing unit for which service in employment as
20 defined in subsection 13 of section 288.034 is performed during
21 the current or preceding calendar year;

22 (7) Any individual, type of organization or employing unit
23 which has been determined to be a successor pursuant to section
24 288.110;

25 (8) Any individual, type of organization or employing unit

1 which has elected to become subject to this law pursuant to
2 subdivision (1) of subsection 3 of section 288.080;

3 (9) Any individual, type of organization or employing unit
4 which, having become an employer, has not pursuant to section
5 288.080 ceased to be an employer;

6 (10) Any employing unit subject to the Federal Unemployment
7 Tax Act or which, as a condition for approval of this law for
8 full tax credit against the tax imposed by the Federal
9 Unemployment Tax Act, is required, pursuant to such act, to be an
10 employer pursuant to this law.

11 2. (1) Notwithstanding any other provisions of this law,
12 any employer, individual, organization, partnership, corporation,
13 other legal entity or employing unit that meets the definition of
14 "lessor employing unit", as defined in subdivision (5) of this
15 subsection, shall be liable for contributions on wages paid by
16 the lessor employing unit to individuals performing services for
17 client lessees of the lessor employing unit. Unless the lessor
18 employing unit has timely complied with the provisions of
19 subdivision (3) of this subsection, any employer, individual,
20 organization, partnership, corporation, other legal entity or
21 employing unit which is leasing individuals from any lessor
22 employing unit shall be jointly and severally liable for any
23 unpaid contributions, interest and penalties due pursuant to this
24 law from any lessor employing unit attributable to wages for
25 services performed for the client lessee entity by individuals

1 leased to the client lessee entity, and the lessor employing unit
2 shall keep separate records and submit separate quarterly
3 contribution and wage reports for each of its client lessee
4 entities. Delinquent contributions, interest and penalties shall
5 be collected in accordance with the provisions of this chapter.

6 (2) Notwithstanding the provisions of subdivision (1) of
7 this subsection, any governmental entity or nonprofit
8 organization that meets the definition of "lessor employing
9 unit", as defined in subdivision (5) of this subsection, and has
10 elected to become liable for payments in lieu of contributions as
11 provided in subsection 3 of section 288.090, shall pay the
12 division payments in lieu of contributions, interest, penalties
13 and surcharges in accordance with section 288.090 on benefits
14 paid to individuals performing services for the client lessees of
15 the lessor employing unit. If the lessor employing unit has not
16 timely complied with the provisions of subdivision (3) of this
17 subsection, any client lessees with services attributable to and
18 performed for the client lessees shall be jointly and severally
19 liable for any unpaid payments in lieu of contributions,
20 interest, penalties and surcharges due pursuant to this law. The
21 lessor employing unit shall keep separate records and submit
22 separate quarterly contribution and wage reports for each of its
23 client lessees. Delinquent payments in lieu of contributions,
24 interest, penalties and surcharges shall be collected in
25 accordance with subsection 3 of section 288.090. The election to

1 be liable for payments in lieu of contributions made by a
2 governmental entity or nonprofit organization meeting the
3 definition of "lessor employing unit", may be terminated by the
4 division in accordance with subsection 3 of section 288.090.

5 (3) In order to relieve a client lessees from joint and
6 several liability and the separate reporting requirements imposed
7 pursuant to this subsection, any lessor employing unit may post
8 and maintain a surety bond issued by a corporate surety
9 authorized to do business in Missouri in an amount equivalent to
10 the contributions or payments in lieu of contributions for which
11 the lessor employing unit was liable in the last calendar year in
12 which he or she accrued contributions or payments in lieu of
13 contributions, or one hundred thousand dollars, whichever amount
14 is the greater, to ensure prompt payment of contributions or
15 payments in lieu of contributions, interest, penalties and
16 surcharges for which the lessor employing unit may be, or
17 becomes, liable pursuant to this law. In lieu of a surety bond,
18 the lessor employing unit may deposit in a depository designated
19 by the director, securities with marketable value equivalent to
20 the amount required for a surety bond. The securities so
21 deposited shall include authorization to the director to sell any
22 securities in an amount sufficient to pay any contributions or
23 payments in lieu of contributions, interest, penalties and
24 surcharges which the lessor employing unit fails to promptly pay
25 when due. In lieu of a surety bond or securities as described in

1 this subdivision, any lessor employing unit may provide the
2 director with an irrevocable letter of credit, as defined in
3 section 400.5-103, RSMo, issued by any state or federally
4 chartered financial institution, in an amount equivalent to the
5 amount required for a surety bond as described in this
6 subdivision. In lieu of a surety bond, securities or an
7 irrevocable letter of credit, a lessor employing unit may obtain
8 a certificate of deposit issued by any state or federally
9 chartered financial institution, in an amount equivalent to the
10 amount required for a surety bond as described in this
11 subdivision. The certificate of deposit shall be pledged to the
12 director until release by the director. As used in this
13 subdivision, the term "certificate of deposit" means a
14 certificate representing any deposit of funds in a state or
15 federally chartered financial institution for a specified period
16 of time which earns interest at a fixed or variable rate, where
17 such funds cannot be withdrawn prior to a specified time without
18 forfeiture of some or all of the earned interest.

19 (4) Any lessor employing unit which is currently engaged in
20 the business of leasing individuals to client lessees shall
21 comply with the provisions of subdivision (3) of this subsection
22 by September 28, 1992. Lessor employing units not currently
23 engaged in the business of leasing individuals to client lessees
24 shall comply with subdivision (3) of this subsection before
25 entering into a written lease agreement with client lessees.

1 (5) As used in this subsection, the term "lessor employing
2 unit" means an independently established business entity,
3 governmental entity as defined in subsection 1 of section 288.030
4 or nonprofit organization as defined in subsection 3 of section
5 288.090 which, pursuant to a written lease agreement between the
6 lessor employing unit and the client lessees, engages in the
7 business of providing individuals to any other employer,
8 individual, organization, partnership, corporation, other legal
9 entity or employing unit referred to in this subsection as a
10 client lessee.

11 (6) The provisions of this subsection shall not be
12 applicable to private employment agencies who provide their
13 employees to employers on a temporary help basis provided the
14 private employment agencies are liable as employers for the
15 payment of contributions on wages paid to temporary workers so
16 employed.

17 3. After September 30, 1986, notwithstanding any provision
18 of section 288.034, for the purpose of this law, in no event
19 shall a for-hire motor carrier as regulated by the Missouri
20 division of motor carrier and railroad safety or whose operations
21 are confined to a commercial zone be determined to be the
22 employer of a lessor as defined in section 288.030 or of a driver
23 receiving remuneration from a lessor, provided, however, the term
24 "for-hire motor carrier" shall in no event include an
25 organization described in section 501(c)(3) of the Internal

1 Revenue Code or any governmental entity.

2 4. The owner or operator of a beauty salon or similar
3 establishment shall not be determined to be the employer of a
4 person who utilizes the facilities of the owner or operator but
5 who receives neither salary, wages or other compensation from the
6 owner or operator and who pays the owner or operator rent or
7 other payments for the use of the facilities.

8 288.034. 1. "Employment" means service, including service
9 in interstate commerce, performed for wages or under any contract
10 of hire, written or oral, express or implied, and notwithstanding
11 any other provisions of this section, service with respect to
12 which a tax is required to be paid under any federal unemployment
13 tax law imposing a tax against which credit may be taken for
14 contributions required to be paid into a state unemployment fund
15 or which, as a condition for full tax credit against the tax
16 imposed by the Federal Unemployment Tax Act, is required to be
17 covered under this law.

18 2. The term "employment" shall include an individual's
19 entire service, performed within or both within and without this
20 state if:

21 (1) The service is localized in this state; or

22 (2) The service is not localized in any state but some of
23 the service is performed in this state and the base of
24 operations, or, if there is no base of operations, then the place
25 from which such service is directed or controlled, is in this

1 state; or the base of operations or place from which such service
2 is directed or controlled is not in any state in which some part
3 of the service is performed but the individual's residence is in
4 this state.

5 3. Service performed by an individual for wages shall be
6 deemed to be employment subject to this law:

7 (1) If covered by an election filed and approved pursuant
8 to subdivision (2) of subsection 3 of section 288.080;

9 (2) If covered by an arrangement pursuant to section
10 288.340 between the division and the agency charged with the
11 administration of any other state or federal unemployment
12 insurance law, pursuant to which all services performed by an
13 individual for an employing unit are deemed to be performed
14 entirely within this state.

15 4. Service shall be deemed to be localized within a state
16 if the service is performed entirely within such state; or the
17 service is performed both within and without such state, but the
18 service performed without such state is incidental to the
19 individual's service within the state; for example, is temporary
20 or transitory in nature or consists of isolated transactions.

21 5. Service performed by an individual for remuneration
22 shall be deemed to be employment subject to this law unless it is
23 shown to the satisfaction of the division that such services were
24 performed by an independent contractor. In determining the
25 existence of the independent contractor relationship, the common

1 law of agency right to control shall be applied. The common law
2 of agency right to control test shall include but not be limited
3 to: if the alleged employer retains the right to control the
4 manner and means by which the results are to be accomplished, the
5 individual who performs the service is an employee. If only the
6 results are controlled, the individual performing the service is
7 an independent contractor.

8 6. The term "employment" shall include service performed
9 for wages as an agent-driver or commission-driver engaged in
10 distributing meat products, vegetable products, fruit products,
11 bakery products, beverages (other than milk), or laundry or
12 dry-cleaning services, for his or her principal; or as a
13 traveling or city salesman, other than as an agent-driver or
14 commission-driver, engaged upon a full-time basis in the
15 solicitation on behalf of, and the transmission to, his or her
16 principal (except for sideline sales activities on behalf of some
17 other person) of orders from wholesalers, retailers, contractors,
18 or operators of hotels, restaurants, or other similar
19 establishments for merchandise for resale or supplies for use in
20 their business operations, provided:

21 (1) The contract of service contemplates that substantially
22 all of the services are to be performed personally by such
23 individual; and

24 (2) The individual does not have a substantial investment
25 in facilities used in connection with the performance of the

1 services (other than in facilities for transportation); and

2 (3) The services are not in the nature of a single
3 transaction that is not part of a continuing relationship with
4 the person for whom the services are performed.

5 7. Service performed by an individual in the employ of this
6 state or any political subdivision thereof or any instrumentality
7 of any one or more of the foregoing which is wholly owned by this
8 state and one or more other states or political subdivisions, or
9 any service performed in the employ of any instrumentality of
10 this state or of any political subdivision thereof, and one or
11 more other states or political subdivisions, provided that such
12 service is excluded from "employment" as defined in the Federal
13 Unemployment Tax Act by Section 3306(c)(7) of that act and is not
14 excluded from "employment" pursuant to subsection 9 of this
15 section, shall be "employment" subject to this law.

16 8. Service performed by an individual in the employ of a
17 corporation or any community chest, fund, or foundation organized
18 and operated exclusively for religious, charitable, scientific,
19 testing for public safety, literary, or educational purposes, or
20 for the prevention of cruelty to children or animals, no part of
21 the net earnings of which inures to the benefit of any private
22 shareholder or individual, or other organization described in
23 Section 501(c)(3) of the Internal Revenue Code which is exempt
24 from income tax under Section 501(a) of that code if the
25 organization had four or more individuals in employment for some

1 portion of a day in each of twenty different weeks whether or not
2 such weeks were consecutive within a calendar year regardless of
3 whether they were employed at the same moment of time shall be
4 "employment" subject to this law.

5 9. For the purposes of subsections 7 and 8 of this section,
6 the term "employment" does not apply to service performed:

7 (1) In the employ of a church or convention or association
8 of churches, or an organization which is operated primarily for
9 religious purposes and which is operated, supervised, controlled,
10 or principally supported by a church or convention or association
11 of churches; or

12 (2) By a duly ordained, commissioned, or licensed minister
13 of a church in the exercise of such minister's ministry or by a
14 member of a religious order in the exercise of duties required by
15 such order; or

16 (3) In the employ of a governmental entity referred to in
17 subdivision (3) of subsection 1 of section 288.032 if such
18 service is performed by an individual in the exercise of duties:

19 (a) As an elected official;

20 (b) As a member of a legislative body, or a member of the
21 judiciary, of a state or political subdivision;

22 (c) As a member of the state national guard or air national
23 guard;

24 (d) As an employee serving on a temporary basis in case of
25 fire, storm, snow, earthquake, flood or similar emergency;

1 (e) In a position which, under or pursuant to the laws of
2 this state, is designated as (i) a major nontenured policy-making
3 or advisory position, or (ii) a policy-making or advisory
4 position the performance of the duties of which ordinarily does
5 not require more than eight hours per week; or

6 (4) In a facility conducted for the purpose of carrying out
7 a program of rehabilitation for individuals whose earning
8 capacity is impaired by age or physical or mental deficiency or
9 injury or providing remunerative work for individuals who because
10 of their impaired physical or mental capacity cannot be readily
11 absorbed in the competitive labor market, by an individual
12 receiving such rehabilitation or remunerative work; or

13 (5) As part of an unemployment work-relief or work-training
14 program assisted or financed in whole or in part by any federal
15 agency or an agency of a state or political subdivision thereof,
16 by an individual receiving such work relief or work training; or

17 (6) By an inmate of a custodial or penal institution; or

18 (7) In the employ of a school, college, or university, if
19 such service is performed (i) by a student who is enrolled and is
20 regularly attending classes at such school, college, or
21 university, or (ii) by the spouse of such a student, if such
22 spouse is advised, at the time such spouse commences to perform
23 such service, that (I) the employment of such spouse to perform
24 such service is provided under a program to provide financial
25 assistance to such student by such school, college, or

1 university, and (II) such employment will not be covered by any
2 program of unemployment insurance.

3 10. The term "employment" shall include the service of an
4 individual who is a citizen of the United States, performed
5 outside the United States (except in Canada), if:

6 (1) The employer's principal place of business in the
7 United States is located in this state; or

8 (2) The employer has no place of business in the United
9 States, but:

10 (a) The employer is an individual who is a resident of this
11 state; or

12 (b) The employer is a corporation which is organized under
13 the laws of this state; or

14 (c) The employer is a partnership or a trust and the number
15 of the partners or trustees who are residents of this state is
16 greater than the number who are residents of any one other state;
17 or

18 (3) None of the criteria of subdivisions (1) and (2) of
19 this subsection is met but the employer has elected coverage in
20 this state or, the employer having failed to elect coverage in
21 any state, the individual has filed a claim for benefits, based
22 on such service, under the law of this state;

23 (4) As used in this subsection and in subsection 11 of this
24 section, the term "United States" includes the states, the
25 District of Columbia and the Commonwealth of Puerto Rico.

1 11. An "American employer", for the purposes of subsection
2 10 of this section, means a person who is:

3 (1) An individual who is a resident of the United States;
4 or

5 (2) A partnership, if two-thirds or more of the partners
6 are residents of the United States; or

7 (3) A trust, if all of the trustees are residents of the
8 United States; or

9 (4) A corporation organized under the laws of the United
10 States or of any state.

11 12. The term "employment" shall not include:

12 (1) Service performed by an individual in agricultural
13 labor;

14 (a) For the purposes of this subdivision, the term
15 "agricultural labor" means remunerated service performed:

16 a. On a farm, in the employ of any person, in connection
17 with cultivating the soil, or in connection with raising or
18 harvesting any agricultural or horticultural commodity, including
19 the raising, shearing, feeding, caring for, training, and
20 management of livestock, bees, poultry, and furbearing animals
21 and wildlife;

22 b. In the employ of the owner or tenant or other operator
23 of a farm, in connection with the operation, management,
24 conservation, improvement, or maintenance of such farm and its
25 tools and equipment, or in salvaging timber or clearing land of

1 brush and other debris left by a hurricane, if the major part of
2 such service is performed on a farm;

3 c. In connection with the production or harvesting of any
4 commodity defined as an agricultural commodity in Section 15(g)
5 of the Federal Agricultural Marketing Act, as amended (46 Stat.
6 1550, Sec. 3; 12 U.S.C. 1441j), or in connection with the
7 ginning of cotton, or in connection with the operation or
8 maintenance of ditches, canals, reservoirs, or waterways, not
9 owned or operated for profit, used exclusively for supplying and
10 storing water for farming purposes;

11 d. i. In the employ of the operator of a farm in handling,
12 planting, drying, packing, packaging, processing, freezing,
13 grading, storing, or delivering to storage or to market or to a
14 carrier for transportation to market, in its unmanufactured
15 state, any agricultural or horticultural commodity; but only if
16 such operator produced more than one-half of the commodity with
17 respect to which such service is performed;

18 ii. In the employ of a group of operators of farms (or a
19 cooperative organization of which such operators are members) in
20 the performance of services described in item i of this
21 subparagraph, but only if such operators produced more than
22 one-half of the commodity with respect to which such service is
23 performed;

24 iii. The provisions of items i and ii of this subparagraph
25 shall not be deemed to be applicable with respect to service

1 performed in connection with commercial canning or commercial
2 freezing or in connection with any agricultural or horticultural
3 commodity after its delivery to a terminal market for
4 distribution for consumption; or

5 e. On a farm operated for profit if such service is not in
6 the course of the employer's trade or business. As used in this
7 paragraph, the term "farm" includes stock, dairy, poultry, fruit,
8 furbearing animals, and truck farms, plantations, ranches,
9 nurseries, ranges, greenhouses or other similar structures, used
10 primarily for the raising of agricultural or horticultural
11 commodities, and orchards;

12 (b) The term "employment" shall include service performed
13 after December 31, 1977, by an individual in agricultural labor
14 as defined in paragraph (a) of this subdivision when such service
15 is performed for a person who, during any calendar quarter, paid
16 remuneration in cash of twenty thousand dollars or more to
17 individuals employed in agricultural labor or for some portion of
18 a day in a calendar year in each of twenty different calendar
19 weeks, whether or not such weeks were consecutive, employed in
20 agricultural labor ten or more individuals, regardless of whether
21 they were employed at the same moment of time;

22 (c) For the purposes of this subsection any individual who
23 is a member of a crew furnished by a crew leader to perform
24 service in agricultural labor for any other person shall be
25 considered as employed by such crew leader:

1 a. If such crew leader holds a valid certificate of
2 registration under the Farm Labor Contractor Registration Act of
3 1963; or substantially all the members of such crew operate or
4 maintain tractors, mechanized harvesting or crop-dusting
5 equipment, or any other mechanized equipment, which is provided
6 by such crew leader; and

7 b. If such individual is not in employment by such other
8 person;

9 c. If any individual is furnished by a crew leader to
10 perform service in agricultural labor for any other person and
11 that individual is not in the employment of the crew leader:

12 i. Such other person and not the crew leader shall be
13 treated as the employer of such individual; and

14 ii. Such other person shall be treated as having paid cash
15 remuneration to such individual in an amount equal to the amount
16 of cash remuneration paid to such individual by the crew leader
17 (either on his or her own behalf or on behalf of such other
18 person) for the service in agricultural labor performed for such
19 other person;

20 d. For the purposes of this subsection, the term "crew
21 leader" means an individual who:

22 i. Furnishes individuals to perform service in agricultural
23 labor for any other person;

24 ii. Pays (either on his or her own behalf or on behalf of
25 such other person) the individuals so furnished by him or her for

1 the service in agricultural labor performed by them; and

2 iii. Has not entered into a written agreement with such
3 other person under which such individual is designated as in
4 employment by such other person;

5 (2) Domestic service in a private home except as provided
6 in subsection 13 of this section;

7 (3) Service performed by an individual under the age of
8 eighteen years in the delivery or distribution of newspapers or
9 shopping news but shall not include delivery or distribution to
10 any point for subsequent delivery or distribution;

11 (4) Service performed by an individual in, and at the time
12 of, the sale of newspapers or magazines to ultimate consumers
13 under an arrangement under which the newspapers or magazines are
14 to be sold by him or her at a fixed price, his or her
15 compensation being based on the retention of the excess of such
16 price over the amount at which the newspapers or magazines are
17 charged to him or her, whether or not he or she is guaranteed a
18 minimum amount of compensation for such service, or is entitled
19 to be credited with the unsold newspapers or magazines turned
20 back;

21 (5) Service performed by an individual in the employ of his
22 or her son, daughter, or spouse, and service performed by a child
23 under the age of twenty-one in the employ of his or her father or
24 mother;

25 (6) Except as otherwise provided in this law, service

1 performed in the employ of a corporation, community chest, fund
2 or foundation, organized and operated exclusively for religious,
3 charitable, scientific, literary, or educational purposes, or for
4 the prevention of cruelty to children or animals, no part of the
5 net earnings of which inures to the benefit of any private
6 shareholder or individual;

7 (7) Services with respect to which unemployment insurance
8 is payable under an unemployment insurance system established by
9 an act of Congress;

10 (8) Service performed in the employ of a foreign
11 government;

12 (9) Service performed in the employ of an instrumentality
13 wholly owned by a foreign government:

14 (a) If the service is of a character similar to that
15 performed in foreign countries by employees of the United States
16 government or of an instrumentality thereof; and

17 (b) If the division finds that the foreign government, with
18 respect to whose instrumentality exemption is claimed, grants an
19 equivalent exemption with respect to similar service performed in
20 the foreign country by employees of the United States government
21 and of instrumentalities thereof. The certification of the
22 United States Secretary of State to the United States Secretary
23 of Treasury shall constitute prima facie evidence of such
24 equivalent exemption;

25 (10) Service covered by an arrangement between the division

1 and the agency charged with the administration of any other state
2 or federal unemployment insurance law pursuant to which all
3 services performed by an individual for an employing unit during
4 the period covered by the employing unit's approved election are
5 deemed to be performed entirely within the jurisdiction of such
6 other state or federal agency;

7 (11) Service performed in any calendar quarter in the
8 employ of a school, college or university not otherwise excluded,
9 if such service is performed by a student who is enrolled and
10 regularly attending classes at such school, college, or
11 university, and the remuneration for such service does not exceed
12 fifty dollars (exclusive of board, room, and tuition);

13 (12) Service performed by an individual for a person as a
14 licensed insurance agent, a licensed insurance broker, or an
15 insurance solicitor, if all such service performed by such
16 individual for such person is performed for remuneration solely
17 by way of commissions;

18 (13) Domestic service performed in the employ of a local
19 college club or of a local chapter of a college fraternity or
20 sorority, except as provided in subsection 13 of this section;

21 (14) Services performed after March 31, 1982, in programs
22 authorized and funded by the Comprehensive Employment and
23 Training Act by participants of such programs, except those
24 programs with respect to which unemployment insurance coverage is
25 required by the Comprehensive Employment and Training Act or

1 regulations issued pursuant thereto;

2 (15) Service performed by an individual who is enrolled at
3 a nonprofit or public educational institution which normally
4 maintains a regular faculty and curriculum and normally has a
5 regularly organized body of students in attendance at the place
6 where its educational activities are carried on, as a student in
7 a full-time program, taken for credit at such institution, which
8 combines academic instruction with work experience, if such
9 service is an integral part of such program, and such institution
10 has so certified to the employer; except, that this subdivision
11 shall not apply to service performed in a program established for
12 or on behalf of an employer or group of employers;

13 (16) Services performed by a licensed real estate
14 salesperson or licensed real estate broker if at least eighty
15 percent of the remuneration, whether or not paid in cash, for the
16 services performed rather than to the number of hours worked is
17 directly related to sales performed pursuant to a written
18 contract between such individual and the person for whom the
19 services are performed and such contract provides that the
20 individual will not be treated as an employee with respect to
21 such services for federal tax purposes;

22 (17) Services performed as a direct seller who is engaged
23 in the trade or business of the delivering or distribution of
24 newspapers or shopping news, including any services directly
25 related to such trade or business, or services performed as a

1 direct seller who is engaged in the trade or business of selling,
2 or soliciting the sale of, consumer products in the home or
3 otherwise than in, or affiliated with, a permanent, fixed retail
4 establishment, if eighty percent or more of the remuneration,
5 whether or not paid in cash, for the services performed rather
6 than the number of hours worked is directly related to sales
7 performed pursuant to a written contract between such direct
8 seller and the person for whom the services are performed, and
9 such contract provides that the individual will not be treated as
10 an employee with respect to such services for federal tax
11 purposes;

12 (18) Services performed as a volunteer research subject who
13 is paid on a per study basis for scientific, medical or
14 drug-related testing for any organization other than one
15 described in Section 501(c)(3) of the Internal Revenue Code or
16 any governmental entity.

17 13. The term "employment" shall include domestic service as
18 defined in subdivisions (2) and [(12)] (13) of subsection 12 of
19 this section performed after December 31, 1977, if the employing
20 unit for which such service is performed paid cash wages of one
21 thousand dollars or more for such services in any calendar
22 quarter after December 31, 1977.

23 14. The term "employment" shall include or exclude the
24 entire service of an individual for an employing unit during a
25 pay period in which such individual's services are not all

1 excluded under the foregoing provisions, on the following basis:
2 if the services performed during one-half or more of any pay
3 period constitute employment as otherwise defined in this law,
4 all the services performed during such period shall be deemed to
5 be employment; but if the services performed during more than
6 one-half of any such pay period do not constitute employment as
7 otherwise defined in this law, then none of the services for such
8 period shall be deemed to be employment. (As used in this
9 subsection, the term "pay period" means a period of not more than
10 thirty-one consecutive days for which a payment of remuneration
11 is ordinarily made to the individual by the employing unit
12 employing such individual.) This subsection shall not be
13 applicable with respect to service performed in a pay period
14 where any such service is excluded pursuant to subdivision [(7)]
15 (8) of subsection 12 of this section.

16 15. The term "employment" shall not include the services of
17 a full-time student who performed such services in the employ of
18 an organized summer camp for less than thirteen calendar weeks in
19 such calendar year.

20 16. For the purpose of subsection 15 of this section, an
21 individual shall be treated as a full-time student for any
22 period:

23 (1) During which the individual is enrolled as a full-time
24 student at an educational institution; or

25 (2) Which is between academic years or terms if:

1 (a) The individual was enrolled as a full-time student at
2 an educational institution for the immediately preceding academic
3 year or term; and

4 (b) There is a reasonable assurance that the individual
5 will be so enrolled for the immediately succeeding academic year
6 or term after the period described in paragraph (a) of this
7 subdivision.

8 17. For the purpose of subsection 15 of this section, an
9 "organized summer camp" shall mean a summer camp which:

10 (1) Did not operate for more than seven months in the
11 calendar year and did not operate for more than seven months in
12 the preceding calendar year; or

13 (2) Had average gross receipts for any six months in the
14 preceding calendar year which were not more than thirty-three and
15 one-third percent of its average gross receipts for the other six
16 months in the preceding calendar year.

17 18. The term "employment" shall not mean service performed
18 by a remodeling salesperson acting as an independent contractor;
19 however, if the federal Internal Revenue Service determines that
20 a contractual relationship between a direct provider and an
21 individual acting as an independent contractor pursuant to the
22 provisions of this subsection is in fact an employer-employee
23 relationship for the purposes of federal law, then that
24 relationship shall be considered as an employer-employee
25 relationship for the purposes of this chapter.

1 288.036. 1. "Wages" means all remuneration, payable or
2 paid, for personal services including commissions and bonuses
3 and, except as provided in subdivision [(8)] (7) of this section,
4 the cash value of all remuneration paid in any medium other than
5 cash. Gratuities, including tips received from persons other
6 than the employing unit, shall be considered wages only if
7 required to be reported as wages pursuant to the Federal
8 Unemployment Tax Act, 26 U.S.C. Sec. 3306, and shall be, for the
9 purposes of this chapter, treated as having been paid by the
10 employing unit. Severance pay shall be considered as wages to
11 the extent required pursuant to the Federal Unemployment Tax Act,
12 26 U.S.C. Section 3306(b). Vacation pay and holiday pay shall be
13 considered as wages for the week with respect to which it is
14 payable. The term "wages" shall not include:

15 (1) [For the purposes of determining the amount of
16 contributions due and contribution rates, that part of the
17 remuneration for employment paid to an individual by an employer
18 or the employer's predecessors which is in excess of seven
19 thousand dollars for the calendar years 1988 through 1992, seven
20 thousand five hundred dollars for the calendar year 1993, eight
21 thousand five hundred dollars for the calendar years 1994, 1995
22 and 1996, eight thousand dollars for calendar year 1997, and
23 eight thousand five hundred dollars for the calendar year 1998,
24 and the state taxable wage base as determined in subsection 2 of
25 this section for calendar year 1999, and each calendar year

1 thereafter, unless that part of the remuneration is subject to a
2 tax pursuant to a federal law imposing a tax against which credit
3 may be taken for contributions required to be paid into a state
4 unemployment fund; except that:

5 (a) In addition to the taxable wage, as defined in this
6 subdivision, if on December 31, 1995, or on any December
7 thirty-first thereafter, the balance in the unemployment
8 insurance trust fund, less any federal advances, is less than one
9 hundred million dollars, then the amount of the taxable wage then
10 in effect shall be increased by five hundred dollars for all
11 succeeding calendar years;

12 (b) If on December 31, 1995, or any December thirty-first
13 thereafter, the balance in the unemployment insurance trust fund,
14 less any federal advances, is two hundred and fifty million
15 dollars or more, then the amount of the taxable wage then in
16 effect shall be reduced by five hundred dollars, but not below
17 that part of the remuneration which is subject to a tax pursuant
18 to a federal law imposing a tax against which credit may be taken
19 for contributions required to be paid into a state unemployment
20 fund;

21 (2)] The amount of any payment made (including any amount
22 paid by an employing unit for insurance or annuities, or into a
23 fund, to provide for any such payment) to, or on behalf of, an
24 individual under a plan or system established by an employing
25 unit which makes provision generally for individuals performing

1 services for it or for a class or classes of such individuals, on
2 account of:

3 (a) Sickness or accident disability, but in case of
4 payments made to an employee or any of the employee's dependents
5 this paragraph shall exclude from the term "wages" only payments
6 which are received pursuant to a workers' compensation law; or

7 (b) Medical and hospitalization expenses in connection with
8 sickness or accident disability; or

9 (c) Death;

10 [(3)] (2) The amount of any payment on account of sickness
11 or accident disability, or medical or hospitalization expenses in
12 connection with sickness or accident disability, made by an
13 employing unit to, or on behalf of, an individual performing
14 services for it after the expiration of six calendar months
15 following the last calendar month in which the individual
16 performed services for such employing unit;

17 [(4)] (3) The amount of any payment made by an employing
18 unit to, or on behalf of, an individual performing services for
19 it or his or her beneficiary:

20 (a) From or to a trust described in 26 U.S.C. 401(a) which
21 is exempt from tax pursuant to 26 U.S.C. 501(a) at the time of
22 such payment unless such payment is made to an employee of the
23 trust as remuneration for services rendered as such an employee
24 and not as a beneficiary of the trust; or

25 (b) Under or to an annuity plan which, at the time of such

1 payments, meets the requirements of section 404(a)(2) of the
2 Federal Internal Revenue Code (26 U.S.C.A. Sec. 404);

3 [(5)] (4) The amount of any payment made by an employing
4 unit (without deduction from the remuneration of the individual
5 in employment) of the tax imposed pursuant to section 3101 of the
6 Federal Internal Revenue Code (26 U.S.C.A. Sec. 3101) upon an
7 individual with respect to remuneration paid to an employee for
8 domestic service in a private home or for agricultural labor;

9 [(6)] (5) Remuneration paid in any medium other than cash
10 to an individual for services not in the course of the employing
11 unit's trade or business;

12 [(7)] (6) Remuneration paid in the form of meals provided
13 to an individual in the service of an employing unit where such
14 remuneration is furnished on the employer's premises and at the
15 employer's convenience, except that remuneration in the form of
16 meals that is considered wages and required to be reported as
17 wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C.
18 Sec. 3306 shall be reported as wages as required thereunder;

19 [(8)] (7) For the purpose of determining wages paid for
20 agricultural labor as defined in paragraph (b) of subdivision (1)
21 of subsection 12 of section 288.034 and for domestic service as
22 defined in subsection 13 of section 288.034, only cash wages paid
23 shall be considered;

24 [(9)] (8) Beginning on October 1, 1996, any payment to, or
25 on behalf of, an employee or the employee's beneficiary under a

1 cafeteria plan, if such payment would not be treated as wages
2 pursuant to the Federal Unemployment Tax Act.

3 2. The increases or decreases to the state taxable wage
4 base for calendar year 1999] 2005, and each calendar year
5 thereafter, shall be determined by the provisions within this
6 subsection. On January 1, 2005, the state taxable wage base for
7 calendar [year 1999, and] years 2005 and 2006 shall be eleven
8 thousand dollars. The state taxable wage base for calendar years
9 2007, 2008, and 2009 shall be twelve thousand dollars. The state
10 taxable wage base for each calendar year thereafter[,] shall be
11 determined by the preceding September thirtieth balance of the
12 unemployment compensation trust fund, less any outstanding
13 federal Title XII advances received pursuant to section 288.330,
14 or if the fund is not utilizing moneys advanced by the federal
15 government, then less the principal, interest, and administrative
16 expenses related to credit instruments issued under section
17 288.330, or the principal, interest, and administrative expenses
18 related to financial agreements under subdivision (17) of
19 subsection 2 of section 288.330, or the principal, interest, and
20 administrative expenses related to a combination of credit
21 instruments and financial agreements. When the September
22 thirtieth unemployment compensation trust fund balance, or, if
23 the average balance, less any federal advances of the
24 unemployment compensation trust fund of the four preceding
25 quarters (September thirtieth, June thirtieth, March thirty-

1 first, and December thirty-first of the preceding calendar year)
2 is less any outstanding federal Title XII advances received
3 pursuant to section 288.330, is:

4 (1) Less than, or equal to, three hundred fifty million
5 dollars, then the wage base shall increase by [five hundred] one
6 thousand dollars; or

7 (2) [Four] Six hundred fifty million or more, then the
8 state taxable wage base for the subsequent calendar year shall be
9 decreased by five hundred dollars. In no event, however, shall
10 the state taxable wage base increase beyond [ten] twelve thousand
11 [five hundred] dollars, or decrease to less than seven thousand
12 dollars. For calendar year 2010 and each calendar year
13 thereafter in no event, however, shall the state taxable wage
14 base increase beyond thirteen thousand dollars, or decrease to
15 less than seven thousand dollars.

16 For any calendar year, the state taxable wage base shall not be
17 reduced to less than that part of the remuneration which is
18 subject to a tax under a federal law imposing a tax against which
19 credit may be taken for contributions required to be paid into a
20 state unemployment compensation trust fund. Nothing in this
21 section shall be construed to prevent the wage base from
22 increasing or decreasing by increments of five hundred dollars.

23 288.038. With respect to initial claims filed during
24 calendar years [1998, 1999, 2000 and 2001 and each calendar year

1 thereafter,] 2004 and 2005 the "maximum weekly benefit amount"

2 means four percent of the total wages paid to an eligible insured

3 worker during that quarter of the worker's base period in which

4 the worker's wages were the highest, but the maximum weekly

5 benefit amount shall not exceed [two hundred five dollars in the

6 calendar year 1998, two hundred twenty dollars in the calendar

7 year 1999, two hundred thirty-five dollars in the calendar year

8 2000, and] two hundred fifty dollars in the calendar [year 2001,

9 and each calendar year thereafter.] years 2004 and 2005. With

10 respect to initial claims filed during calendar years 2006 and

11 2007 the "maximum weekly benefit amount" means three and

12 three-fourths percent of the total wages paid to an eligible

13 insured worker during that quarter of the worker's base period in

14 which the worker's wages were the highest, but the maximum weekly

15 benefit amount shall not exceed two hundred seventy dollars in

16 calendar year 2006 and the maximum weekly benefit amount shall

17 not exceed two hundred eighty dollars in calendar year 2007.

18 With respect to initial claims filed during calendar year 2008

19 and each calendar year thereafter, the "maximum weekly benefit

20 amount" means four percent of the total wages paid to an eligible

21 insured worker during the average of the two highest quarters of

22 the worker's base period, but the maximum weekly benefit amount

23 shall not exceed three hundred dollars in calendar years 2008 and

24 2009, three hundred twenty dollars in calendar year 2010, and

25 each calendar year thereafter. If such benefit amount is not a

multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount.

288.040. 1. A claimant who is unemployed and has been determined to be an insured worker shall be eligible for benefits for any week only if the deputy finds that:

(1) The claimant has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the division may prescribe;

(2) The claimant is able to work and is available for work. No person shall be deemed available for work unless such person has been and is actively and earnestly seeking work. Upon the filing of an initial or renewed claim, and prior to the filing of each weekly claim thereafter, the deputy shall notify each claimant of the number of work search contacts required to constitute an active search for work. No person shall be considered not available for work, pursuant to this subdivision, solely because he or she is a substitute teacher or is on jury duty. A claimant shall not be determined to be ineligible pursuant to this subdivision because of not actively and earnestly seeking work if:

(a) The claimant is participating in training approved pursuant to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended); [or]

(b) The claimant is temporarily unemployed through no fault of his or her own and has a definite recall date within eight

1 weeks of his or her first day of unemployment; however, upon
2 application of the employer responsible for the claimant's
3 unemployment, such eight-week period may be extended not to
4 exceed a total of sixteen weeks at the discretion of the
5 director;

6 (3) The claimant has reported in person to an office of the
7 division as directed by the deputy, but at least once every four
8 weeks, except that a claimant shall be exempted from the
9 reporting requirement of this subdivision if:

10 (a) The claimant is claiming benefits in accordance with
11 division regulations dealing with partial or temporary total
12 unemployment; or

13 (b) The claimant is temporarily unemployed through no fault
14 of his or her own and has a definite recall date within eight
15 weeks of his or her first day of unemployment; or

16 (c) The claimant resides in a county with an unemployment
17 rate, as published by the division, of ten percent or more and in
18 which the county seat is more than forty miles from the nearest
19 division office;

20 (d) The director of the division of employment security has
21 determined that the claimant belongs to a group or class of
22 workers whose opportunities for reemployment will not be enhanced
23 by reporting in person, or is prevented from reporting due to
24 emergency conditions that limit access by the general public to
25 an office that serves the area where the claimant resides, but

1 only during the time such circumstances exist.

2 Ineligibility pursuant to this subdivision shall begin on the
3 first day of the week which the claimant was scheduled to claim
4 and shall end on the last day of the week preceding the week
5 during which the claimant does report in person to the division's
6 office;

7 (4) Prior to the first week of a period of total or partial
8 unemployment for which the claimant claims benefits he or she has
9 been totally or partially unemployed for a waiting period of one
10 week. No more than one waiting week will be required in any
11 benefit year. [The one-week waiting period shall become
12 compensable after unemployment during which benefits are payable
13 for nine consecutive weeks.] During calendar year 2008 and each
14 calendar year thereafter, the one-week waiting period shall
15 become compensable once his or her remaining balance on the claim
16 is equal to or less than the compensable amount for the waiting
17 period. No week shall be counted as a week of total or partial
18 unemployment for the purposes of this subsection unless it occurs
19 within the benefit year which includes the week with respect to
20 which the claimant claims benefits;

21 (5) The claimant has made a claim for benefits;

22 (6) The claimant is participating in reemployment services,
23 such as job search assistance services, as directed by the deputy
24 if the claimant has been determined to be likely to exhaust

1 regular benefits and to need reemployment services pursuant to a
2 profiling system established by the division, unless the deputy
3 determines that:

4 (a) The individual has completed such reemployment
5 services; or

6 (b) There is justifiable cause for the claimant's failure
7 to participate in such reemployment services.

8 2. A claimant shall be ineligible for waiting week credit
9 or benefits for any week for which the deputy finds he or she is
10 or has been suspended by his or her most recent employer for
11 misconduct connected with his or her work. Suspensions of four
12 weeks or more shall be treated as discharges.

13 3. (1) Benefits based on "service in employment", defined
14 in subsections 7 and 8 of section 288.034, shall be payable in
15 the same amount, on the same terms and subject to the same
16 conditions as compensation payable on the basis of other service
17 subject to this law; except that:

18 (a) With respect to service performed in an instructional,
19 research, or principal administrative capacity for an educational
20 institution, benefits shall not be paid based on such services
21 for any week of unemployment commencing during the period between
22 two successive academic years or terms, or during a similar
23 period between two regular but not successive terms, or during a
24 period of paid sabbatical leave provided for in the individual's
25 contract, to any individual if such individual performs such

1 services in the first of such academic years (or terms) and if
2 there is a contract or a reasonable assurance that such
3 individual will perform services in any such capacity for any
4 educational institution in the second of such academic years or
5 terms;

6 (b) With respect to services performed in any capacity
7 (other than instructional, research, or principal administrative
8 capacity) for an educational institution, benefits shall not be
9 paid on the basis of such services to any individual for any week
10 which commences during a period between two successive academic
11 years or terms if such individual performs such services in the
12 first of such academic years or terms and there is a contract or
13 a reasonable assurance that such individual will perform such
14 services in the second of such academic years or terms;

15 (c) With respect to services described in paragraphs (a)
16 and (b) of this subdivision, benefits shall not be paid on the
17 basis of such services to any individual for any week which
18 commences during an established and customary vacation period or
19 holiday recess if such individual performed such services in the
20 period immediately before such vacation period or holiday recess,
21 and there is reasonable assurance that such individual will
22 perform such services immediately following such vacation period
23 or holiday recess;

24 (d) With respect to services described in paragraphs (a)
25 and (b) of this subdivision, benefits payable on the basis of

1 services in any such capacity shall be denied as specified in
2 paragraphs (a), (b), and (c) of this subdivision, to any
3 individual who performed such services at an educational
4 institution while in the employ of an educational service agency,
5 and for this purpose the term "educational service agency" means
6 a governmental agency or governmental entity which is established
7 and operated exclusively for the purpose of providing such
8 services to one or more educational institutions.

9 (2) If compensation is denied for any week pursuant to
10 paragraph (b) or (d) of subdivision (1) of this subsection, to
11 any individual performing services at an educational institution
12 in any capacity (other than instructional, research or principal
13 administrative capacity), and such individual was not offered an
14 opportunity to perform such services for the second of such
15 academic years or terms, such individual shall be entitled to a
16 retroactive payment of the compensation for each week for which
17 the individual filed a timely claim for compensation and for
18 which compensation was denied solely by reason of paragraph (b)
19 or (d) of subdivision (1) of this subsection.

20 4. (1) A claimant shall be ineligible for waiting week
21 credit, benefits or shared work benefits for any week for which
22 he or she is receiving or has received remuneration exceeding his
23 or her weekly benefit amount or shared work benefit amount in the
24 form of:

25 (a) Compensation for temporary partial disability pursuant

1 to the workers' compensation law of any state or pursuant to a
2 similar law of the United States;

3 (b) A governmental or other pension, retirement or retired
4 pay, annuity, or other similar periodic payment which is based on
5 the previous work of such claimant to the extent that such
6 payment is provided from funds provided by a base period or
7 chargeable employer pursuant to a plan maintained or contributed
8 to by such employer; but, except for such payments made pursuant
9 to the Social Security Act or the Railroad Retirement Act of 1974
10 (or the corresponding provisions of prior law), the provisions of
11 this paragraph shall not apply if the services performed for such
12 employer by the claimant after the beginning of the base period
13 (or remuneration for such services) do not affect eligibility for
14 or increase the amount of such pension, retirement or retired
15 pay, annuity or similar payment.

16 (2) If the remuneration referred to in this subsection is
17 less than the benefits which would otherwise be due, the claimant
18 shall be entitled to receive for such week, if otherwise
19 eligible, benefits reduced by the amount of such remuneration,
20 and, if such benefit is not a multiple of one dollar, such amount
21 shall be lowered to the next multiple of one dollar.

22 (3) Notwithstanding the provisions of subdivisions (1) and
23 (2) of this subsection, if a claimant has contributed in any way
24 to the Social Security Act or the Railroad Retirement Act of
25 1974, or the corresponding provisions of prior law, no part of

1 the payments received pursuant to such federal law shall be
2 deductible from the amount of benefits received pursuant to this
3 chapter.

4 5. A claimant shall be ineligible for waiting week credit
5 or benefits for any week for which or a part of which he or she
6 has received or is seeking unemployment benefits pursuant to an
7 unemployment insurance law of another state or the United States;
8 provided, that if it be finally determined that the claimant is
9 not entitled to such unemployment benefits, such ineligibility
10 shall not apply.

11 6. (1) A claimant shall be ineligible for waiting week
12 credit or benefits for any week for which the deputy finds that
13 such claimant's total or partial unemployment is due to a
14 stoppage of work which exists because of a labor dispute in the
15 factory, establishment or other premises in which such claimant
16 is or was last employed. In the event the claimant secures other
17 employment from which he or she is separated during the existence
18 of the labor dispute, the claimant must have obtained bona fide
19 employment as a permanent employee for at least the major part of
20 each of two weeks in such subsequent employment to terminate his
21 or her ineligibility. If, in any case, separate branches of work
22 which are commonly conducted as separate businesses at separate
23 premises are conducted in separate departments of the same
24 premises, each such department shall for the purposes of this
25 subsection be deemed to be a separate factory, establishment or

1 other premises. This subsection shall not apply if it is shown
2 to the satisfaction of the deputy that:

3 (a) The claimant is not participating in or financing or
4 directly interested in the labor dispute which caused the
5 stoppage of work; and

6 (b) The claimant does not belong to a grade or class of
7 workers of which, immediately preceding the commencement of the
8 stoppage, there were members employed at the premises at which
9 the stoppage occurs, any of whom are participating in or
10 financing or directly interested in the dispute.

11 (2) "Stoppage of work" as used in this subsection means a
12 substantial diminution of the activities, production or services
13 at the establishment, plant, factory or premises of the employing
14 unit. This definition shall not apply to a strike where the
15 employees in the bargaining unit who initiated the strike are
16 participating in the strike. Such employees shall not be
17 eligible for waiting week credit or benefits during the period
18 when the strike is in effect, regardless of diminution, unless
19 the employer has been found guilty of an unfair labor practice by
20 the National Labor Relations Board or a federal court of law for
21 an act or actions preceding or during the strike.

22 7. On or after January 1, 1978, benefits shall not be paid
23 to any individual on the basis of any services, substantially all
24 of which consist of participating in sports or athletic events or
25 training or preparing to so participate, for any week which

1 commences during the period between two successive sport seasons
2 (or similar periods) if such individual performed such services
3 in the first of such seasons (or similar periods) and there is a
4 reasonable assurance that such individual will perform such
5 services in the later of such seasons (or similar periods).

6 8. Benefits shall not be payable on the basis of services
7 performed by an alien, unless such alien is an individual who was
8 lawfully admitted for permanent residence at the time such
9 services were performed, was lawfully present for purposes of
10 performing such services, or was permanently residing in the
11 United States under color of law at the time such services were
12 performed (including an alien who was lawfully present in the
13 United States as a result of the application of the provisions of
14 Section 212(d)(5) of the Immigration and Nationality Act).

15 (1) Any data or information required of individuals
16 applying for benefits to determine whether benefits are not
17 payable to them because of their alien status shall be uniformly
18 required from all applicants for benefits.

19 (2) In the case of an individual whose application for
20 benefits would otherwise be approved, no determination that
21 benefits to such individual are not payable because of such
22 individual's alien status shall be made except upon a
23 preponderance of the evidence.

24 288.045. 1. If a claimant is at work with a detectible
25 amount of alcohol or a controlled substance as defined in section

1 195.010, RSMo, in the claimant's system, in violation of the
2 employer's alcohol and controlled substance workplace policy, the
3 claimant shall have committed misconduct connected with the
4 claimant's work.

5 2. For carboxy-tetrahydrocannabinol, a chemical test result
6 of fifty nanograms per milliliter or more shall be considered a
7 detectible amount. For alcohol, a blood alcohol content of
8 eight-hundredths of one percent or more by weight of alcohol in
9 the claimant's blood shall be considered a detectible amount.

10 3. If the test is conducted by a laboratory certified by
11 the United States Department of Transportation, the test results
12 and the laboratory's trial packet shall be included in the
13 administrative record and considered as evidence.

14 4. For this section to be applicable, the claimant shall
15 have previously been notified of the employer's alcohol and
16 controlled substance workplace policy by conspicuously posting
17 the policy in the workplace, by including the policy in a written
18 personnel policy or handbook, or by statement of such policy in a
19 collective bargaining agreement governing employment of the
20 employee. The policy shall state that a positive test result
21 shall be deemed misconduct and may result in suspension or
22 termination of employment.

23 5. For this section to be applicable, testing shall be
24 conducted only if sufficient cause exists to suspect alcohol or
25 controlled substance use by the claimant. If sufficient cause

1 exists to suspect prior alcohol or controlled substance use by
2 the claimant, or the employer's policy clearly states that there
3 will be random testing, then testing of the claimant may be
4 conducted randomly.

5 6. Notwithstanding any provision of this chapter to the
6 contrary, any claimant found to be in violation of this section
7 shall be subject to the cancellation of all or part of the
8 claimant's wage credits as provided by subdivision (2) of
9 subsection 2 of section 288.050.

10 7. The application of the provisions of this section shall
11 not apply in the event that the claimant is subject to the
12 provisions of any applicable collective bargaining agreement.
13 Nothing in this chapter is intended to authorize any employer to
14 test any applicant or employee for alcohol or drugs in any manner
15 inconsistent with Missouri or United States constitution, law,
16 statute or regulation, including those imposed by the Americans
17 with Disabilities Act and the National Labor Relations Act.

18 8. All specimen collection and testing for drugs and
19 alcohol under this chapter shall be performed in accordance with
20 the procedures provided for by the United States department of
21 transportation rules for workplace drug and alcohol testing
22 compiled at 49 C.F.R., Part 40. Any employer that performs drug
23 testing or specimen collection shall use chain-of-custody
24 procedures established by regulations of the United States
25 Department of Transportation. "Specimen" means tissue, fluid, or

1 a product of the human body capable of revealing the presence of
2 alcohol or drugs or their metabolites. "Chain of custody" refers
3 to the methodology of tracking specified materials or substances
4 for the purpose of maintaining control and accountability from
5 initial collection to final disposition for all such materials or
6 substances, and providing for accountability at each stage in
7 handling, testing and storing specimens and reporting test
8 results.

9 9. For this section to be applicable, the employee may
10 request that a confirmation test on the specimen be conducted.
11 "Confirmation test" means a second analytical procedure used to
12 identify the presence of a specific drug or alcohol or metabolite
13 in a specimen, which test shall be different in scientific
14 principle from that of the initial test procedure and shall be
15 capable of providing requisite specificity, sensitivity and
16 quantitative accuracy. In the event that a confirmation test is
17 requested, such shall be obtained from a separate, unrelated
18 certified laboratory and shall be at the employee's expense only
19 if said test confirms results as specified in subsection 2 of
20 section 288.045.

21 10. Use of a controlled substance as defined under section
22 195.010, RSMo, under, and in conformity with the lawful order of
23 a healthcare practitioner shall not be deemed to be misconduct
24 connected with work for the purposes of this section.

25 11. This section shall have no effect on employers who do

1 not avail themselves of the requirements and regulations for
2 alcohol and controlled drug testing determinations that are
3 required to affirm misconduct connected with work findings.

4 12. Any employer that initiates an alcohol and drug testing
5 policy after January 1, 2005, shall ensure that at least sixty
6 days elapse between a general one-time notice to all employees
7 that an alcohol and drug testing workplace policy is being
8 implemented and the effective date of the program.

9 13. (1) In applying provisions of this chapter, it is the
10 intent of the legislature to reject and abrogate previous case
11 law interpretations of "misconduct connected with work" requiring
12 a finding of evidence of impairment of work performance,
13 including but not limited to the holdings contained in Baldor
14 Electric Company v. Raylene Reasoner and Missouri Division of
15 Employment Security, 66 S.W. 3d 130 (Mo. App. E.D. 2001).

16 (2) In determining whether or not misconduct connected with
17 work has occurred, neither the state, any agency of the state nor
18 any court of the state of Missouri shall require a finding of
19 evidence of impairment of work performance.

20 14. Notwithstanding any provision of this chapter to the
21 contrary, any claimant found to be in violation of this section
22 shall be subject to the cancellation of all or part of the
23 claimant's wage credits as provided by subdivision (2) of
24 subsection 2 of section 288.050.

25 288.050. 1. Notwithstanding the other provisions of this

1 law, a claimant shall be disqualified for waiting week credit or
2 benefits until after the claimant has earned wages for work
3 insured pursuant to the unemployment compensation laws of any
4 state equal to ten times the claimant's weekly benefit amount if
5 the deputy finds:

6 (1) That the claimant has left work voluntarily without
7 good cause attributable to such work or to the claimant's
8 employer[; except that]. A temporary employee of a temporary
9 help firm shall be deemed to have voluntarily quit employment if
10 the employee does not contact the temporary help firm for
11 reassignment prior to filing for benefits. Failure to contact
12 the temporary help firm shall not be deemed a voluntary quit
13 unless the claimant has been advised of the obligation to contact
14 the firm upon completion of assignments and that unemployment
15 benefits may be denied for failure to do so. The claimant shall
16 not be disqualified:

17 (a) If the deputy finds the claimant quit such work for the
18 purpose of accepting a more remunerative job which the claimant
19 did accept and earn some wages therein;

20 (b) If the claimant quit temporary work to return to such
21 claimant's regular employer; or

22 (c) If the deputy finds the individual quit work, which
23 would have been determined not suitable in accordance with
24 paragraphs (a) and (b) of subdivision (3) of this subsection,
25 within twenty-eight calendar days of the first day worked;

1 (d) As to initial claims filed after December 31, 1988, if
2 the claimant presents evidence supported by competent medical
3 proof that she was forced to leave her work because of pregnancy,
4 notified her employer of such necessity as soon as practical
5 under the circumstances, and returned to that employer and
6 offered her services to that employer as soon as she was
7 physically able to return to work, as certified by a licensed and
8 practicing physician, but in no event later than ninety days
9 after the termination of the pregnancy. An employee shall have
10 been employed for at least one year with the same employer before
11 she may be provided benefits pursuant to the provisions of this
12 paragraph;

13 (2) That the claimant has retired pursuant to the terms of
14 a labor agreement between the claimant's employer and a union
15 duly elected by the employees as their official representative or
16 in accordance with an established policy of the claimant's
17 employer; or

18 (3) That the claimant failed without good cause either to
19 apply for available suitable work when so directed by the deputy,
20 or to accept suitable work when offered the claimant, either
21 through the division or directly by an employer by whom the
22 individual was formerly employed, or to return to the
23 individual's customary self-employment, if any, when so directed
24 by the deputy. An offer of work shall be rebuttably presumed if
25 an employer notifies the claimant in writing of such offer by

1 sending an acknowledgment via any form of certified mail issued
2 by the United States Postal Service stating such offer to the
3 claimant at his or her last known address. Nothing in this
4 subdivision shall be construed to limit the means by which the
5 deputy may establish that the claimant has or has not been
6 sufficiently notified of available work.

7 (a) In determining whether or not any work is suitable for
8 an individual, the division shall consider, among other factors
9 and in addition to those enumerated in paragraph (b) of this
10 subdivision, the degree of risk involved to the individual's
11 health, safety and morals, the individual's physical fitness and
12 prior training, the individual's experience and prior earnings,
13 the individual's length of unemployment, the individual's
14 prospects for securing work in the individual's customary
15 occupation, the distance of available work from the individual's
16 residence and the individual's prospect of obtaining local work;
17 except that, if an individual has moved from the locality in
18 which the individual actually resided when such individual was
19 last employed to a place where there is less probability of the
20 individual's employment at such individual's usual type of work
21 and which is more distant from or otherwise less accessible to
22 the community in which the individual was last employed, work
23 offered by the individual's most recent employer if similar to
24 that which such individual performed in such individual's last
25 employment and at wages, hours, and working conditions which are

1 substantially similar to those prevailing for similar work in
2 such community, or any work which the individual is capable of
3 performing at the wages prevailing for such work in the locality
4 to which the individual has moved, if not hazardous to such
5 individual's health, safety or morals, shall be deemed suitable
6 for the individual;

7 (b) Notwithstanding any other provisions of this law, no
8 work shall be deemed suitable and benefits shall not be denied
9 pursuant to this law to any otherwise eligible individual for
10 refusing to accept new work under any of the following
11 conditions:

12 a. If the position offered is vacant due directly to a
13 strike, lockout, or other labor dispute;

14 b. If the wages, hours, or other conditions of the work
15 offered are substantially less favorable to the individual than
16 those prevailing for similar work in the locality;

17 c. If as a condition of being employed the individual would
18 be required to join a company union or to resign from or refrain
19 from joining any bona fide labor organization.

20 2. [Notwithstanding the other provisions of this law,] If a
21 deputy finds that a claimant has been discharged for misconduct
22 connected with the claimant's work, such claimant[, depending
23 upon the seriousness of the misconduct as determined by the
24 deputy according to the circumstances in each case,] shall be
25 disqualified for waiting week credit [or] and benefits [for not

1 less than four nor more than sixteen weeks for which the claimant
2 claims benefits and is otherwise eligible], and no benefits shall
3 be paid nor shall the cost of any benefits be charged against any
4 employer for any period of employment within the base period
5 until the claimant has earned wages for work insured under the
6 unemployment laws of this state or any other state as prescribed
7 in this section. In addition to the disqualification for
8 benefits pursuant to this provision the division may in the more
9 aggravated cases of misconduct, cancel all or any part of the
10 individual's wage credits, which were established through the
11 individual's employment by the employer who discharged such
12 individual, according to the seriousness of the misconduct. A
13 disqualification provided for pursuant to this subsection shall
14 not apply to any week which occurs after the claimant has earned
15 wages for work insured pursuant to the unemployment compensation
16 laws of any state in an amount equal to eight times the
17 claimant's weekly benefit amount.

18 3. [A pattern of] Absenteeism or tardiness may constitute
19 misconduct regardless of whether the last incident alone [which
20 results in the discharge] constitutes misconduct. In determining
21 whether the degree of absenteeism or tardiness constitutes a
22 pattern for which misconduct may be found, the division shall
23 consider whether the discharge was the result of a violation of
24 the employer's attendance policy, provided the employee had
25 received knowledge of such policy prior to the occurrence of any

1 absence or tardy upon which the discharge is based.

2 4. Notwithstanding the provisions of subsection 1 of this
3 section, a claimant may not be determined to be disqualified for
4 benefits because the claimant is in training approved pursuant to
5 section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A.
6 Sec. 2296, as amended), or because the claimant left work which
7 was not "suitable employment" to enter such training. For the
8 purposes of this subsection "suitable employment" means, with
9 respect to a worker, work of a substantially equal or higher
10 skill level than the worker's past adversely affected employment,
11 and wages for such work at not less than eighty percent of the
12 worker's average weekly wage as determined for the purposes of
13 the Trade Act of 1974.

14 288.060. 1. All benefits shall be paid through employment
15 offices in accordance with such regulations as the division may
16 prescribe.

17 2. Each eligible insured worker who is totally unemployed
18 in any week shall be paid for such week a sum equal to his or her
19 weekly benefit amount.

20 3. Each eligible insured worker who is partially unemployed
21 in any week shall be paid for such week a partial benefit. Such
22 partial benefit shall be an amount equal to the difference
23 between his or her weekly benefit amount and that part of his or
24 her wages for such week in excess of twenty dollars, and, if such
25 partial benefit amount is not a multiple of one dollar, such

1 amount shall be reduced to the nearest lower full dollar amount.
2 For calendar year 2007 and each year thereafter, such partial
3 benefit shall be an amount equal to the difference between his or
4 her weekly benefit amount and that part of his or her wages for
5 such week in excess of twenty dollars or twenty percent of his or
6 her weekly benefit amount, whichever is greater, and, if such
7 partial benefit amount is not a multiple of one dollar, such
8 amount shall be reduced to the nearest lower full dollar amount.

9 Termination pay, severance pay or pay received by an eligible
10 insured worker who is a member of the organized militia for
11 training or duty authorized by section 502(a)(1) of Title 32,
12 United States Code, [or who is an elected official] shall not be
13 considered wages for the purpose of this subsection.

14 4. The division shall compute the wage credits for each
15 individual by crediting him or her with the wages paid to him or
16 her for insured work during each quarter of his or her base
17 period or twenty-six times his or her weekly benefit amount,
18 whichever is the lesser. In addition, if a claimant receives
19 wages in the form of termination pay or severance pay and such
20 payment appears in a base period established by the filing of an
21 initial claim, the claimant may, at his or her option, choose to
22 have such payment included in the calendar quarter in which it
23 was paid or choose to have it prorated equally among the quarters
24 comprising the base period of the claim. The maximum total
25 amount of benefits payable to any insured worker during any

1 benefit year shall not exceed twenty-six times his or her weekly
2 benefit amount, or thirty-three and one-third percent of his or
3 her wage credits, whichever is the lesser. For the purpose of
4 this section, wages shall be counted as wage credits for any
5 benefit year, only if such benefit year begins subsequent to the
6 date on which the employing unit by whom such wages were paid has
7 become an employer. The wage credits of an individual earned
8 during the period commencing with the end of a prior base period
9 and ending on the date on which he or she filed an allowed
10 initial claim shall not be available for benefit purposes in a
11 subsequent benefit year unless, in addition thereto, such
12 individual has subsequently earned either wages for insured work
13 in an amount equal to at least five times his or her current
14 weekly benefit amount or wages in an amount equal to at least ten
15 times his or her current weekly benefit amount.

16 5. In the event that benefits are due a deceased person and
17 no petition has been filed for the probate of the will or for the
18 administration of the estate of such person within thirty days
19 after his or her death, the division may by regulation provide
20 for the payment of such benefits to such person or persons as the
21 division finds entitled thereto and every such payment shall be a
22 valid payment to the same extent as if made to the legal
23 representatives of the deceased.

24 6. The division is authorized to cancel any benefit warrant
25 remaining outstanding and unpaid one year after the date of its

1 issuance and there shall be no liability for the payment of any
2 such benefit warrant thereafter.

3 7. The division may establish an electronic funds transfer
4 system to transfer directly to claimants' accounts in financial
5 institutions benefits payable to them pursuant to this chapter.
6 To receive benefits by electronic funds transfer, a claimant
7 shall satisfactorily complete a direct deposit application form
8 authorizing the division to deposit benefit payments into a
9 designated checking or savings account. Any electronic funds
10 transfer system created pursuant to this subsection shall be
11 administered in accordance with regulations prescribed by the
12 division.

13 8. The division may issue a benefit warrant covering more
14 than one week of benefits.

15 9. Prior to January 1, 2005, the division shall institute
16 procedures including, but not limited to, name, date of birth,
17 and social security verification matches for remote claims filing
18 via the use of telephone or the Internet in accordance with such
19 regulations as the division shall prescribe. At a minimum, the
20 division shall verify the social security number and date of
21 birth when an individual claimant initially files for
22 unemployment insurance benefits. If verification information
23 does not match what is on file in division databases to what the
24 individual is stating, the division shall require the claimant to
25 submit a division-approved form requesting an affidavit of

1 eligibility prior to the payment of additional future benefits.
2 The division of employment security shall cross-check
3 unemployment compensation applicants and recipients with Social
4 Security Administration data maintained by the federal government
5 on the most frequent basis recommended by the United States
6 Department of Labor, or absent a recommendation, at least
7 monthly. The division of employment security shall cross-check
8 at least monthly unemployment compensation applicants and
9 recipients with department of revenue drivers license databases.

10 288.070. 1. All claims shall be made in accordance with
11 such regulations as the division may prescribe; except that such
12 regulations shall not require the filing of a claim for benefits
13 by the claimant in person for a week of unemployment occurring
14 immediately prior to the claimant's reemployment, but claims in
15 such cases may be made by mail, or otherwise if authorized by
16 regulation. Notice of each initial claim filed by an insured
17 worker which establishes the beginning of such worker's benefit
18 year shall be promptly mailed by the division to each base period
19 employer of such individual and to the last employing unit whose
20 name is furnished by the individual when such individual files
21 such claim. In similar manner, a notice of each renewed claim
22 filed by an insured worker during a benefit year after a period
23 in such year during which the insured worker was employed shall
24 be given to the last employing unit whose name is furnished by
25 the individual when the individual files such renewed claim or to

1 any other base period or subsequent employer of the worker who
2 has requested such a notice. Any such base period employer or
3 any employing unit, which employed the claimant since the
4 beginning of the base period, who within ten calendar days after
5 the mailing of notice of the initial claim or a renewed claim to
6 the employer or employing unit's last known address files a
7 written protest against the allowance of benefits, and any
8 employing unit from whom the claimant was separated during a week
9 of continued claim other than a week in which an initial or
10 renewed claim is effective, shall be deemed an interested party
11 to any determination allowing benefits during the benefit year
12 until such time as the issue or issues raised by the protest are
13 resolved by a determination or decision which has become final.

14 2. A deputy shall promptly examine each initial claim and
15 make a determination of the claimant's status as an insured
16 worker. Each such determination shall be based on a written
17 statement showing the amount of wages for insured work paid to
18 the claimant by each employer during the claimant's base period
19 and shall include a finding as to whether such wages meet the
20 requirements for the claimant to be an insured worker, and, if
21 so, the first day of the claimant's benefit year, the claimant's
22 weekly benefit amount, and the maximum total amount of benefits
23 which may be payable to the claimant for weeks of unemployment in
24 the claimant's benefit year. The deputy shall in respect to all
25 claims for benefits thereafter filed by such individual in the

1 claimant's benefit year make a written determination as to
2 whether and in what amount the claimant is entitled to benefits
3 for the week or weeks with respect to which the determination is
4 made. Whenever claims involve complex questions of law or fact,
5 the deputy, with the approval of the director, may refer such
6 claims to the appeals tribunal, without making a determination,
7 for a fair hearing and decision as provided in section 288.190.

8 3. The deputy shall, in writing, promptly notify the
9 claimant of such deputy's determination on an initial claim,
10 including the reason therefor, and a copy of the written
11 statement as provided in subsection 2 of this section. The
12 deputy shall promptly notify the claimant and all other
13 interested parties of such deputy's determination on any claim
14 for benefits and shall give the reason therefor; except that,
15 where a determination on a later claim for benefits in a benefit
16 year is the same as the determination on a preceding claim, no
17 additional notice shall be given. A determination shall be
18 final, when unappealed, in respect to any claim to which it
19 applies except that an appeal from a determination on a claim for
20 benefits shall be considered as an appeal from all later claims
21 to which the same determination applies. The deputy may,
22 however, not later than one year following the end of a benefit
23 year, for good cause, reconsider any determination on any claim
24 and shall promptly notify the claimant and other interested
25 parties of such deputy's redetermination and the reasons

1 therefor. Whenever the deputy shall have notified any interested
2 employer of the denial of benefits to a claimant for any week or
3 weeks and shall thereafter allow benefits to such claimant for a
4 subsequent week or weeks, the deputy shall notify such interested
5 employer of the beginning date of the allowance of benefits for
6 such subsequent period.

7 4. Unless the claimant or any interested party within
8 thirty calendar days after notice of such determination is either
9 delivered in person or mailed to the last known address of such
10 claimant or interested party files an appeal from such
11 determination, it shall be final. If, pursuant to a
12 determination or redetermination, benefits are payable in any
13 amount or in respect to any week as to which there is no dispute,
14 such amount of benefits shall be promptly paid regardless of any
15 appeal.

16 5. Benefits shall be paid promptly in accordance with a
17 determination or redetermination pursuant to this section, or the
18 decision of an appeals tribunal, the labor and industrial
19 relations commission of Missouri or a reviewing court upon the
20 issuance of such determination, redetermination or decision
21 (regardless of the pendency of the period to apply for
22 reconsideration, file an appeal, or petition for judicial review
23 as provided in this section, or section 288.190, 288.200, or
24 288.210, as the case may be, or the pendency of any such
25 application, appeal, or petition) unless and until such

1 determination, redetermination or decision has been modified or
2 reversed by a subsequent redetermination or decision, in which
3 event benefits shall be paid or denied for weeks of unemployment
4 thereafter in accordance with such modified or reversed
5 redetermination or decision.

6 6. Benefits paid during the pendency of the period to apply
7 for reconsideration, file an appeal, or petition for judicial
8 review or during the pendency of any such application, appeal, or
9 petition shall be considered as having been due and payable
10 regardless of any redetermination or decision unless the
11 modifying or reversing redetermination or decision establishes
12 that the claimant willfully failed to disclose or falsified any
13 fact which would have disqualified the claimant or rendered the
14 claimant ineligible for such benefits as contemplated in
15 subsection [9] 10 of section 288.380.

16 7. Benefits paid during the pendency of the period to apply
17 for reconsideration, file an appeal, or petition for judicial
18 review or during the pendency of any such application, appeal, or
19 petition which would not have been payable under a
20 redetermination or decision which becomes final shall not be
21 chargeable to any employer. Beginning with benefits paid on and
22 after January 1, 1998, the provisions of this subsection shall
23 not apply to employers who have elected to make payments in lieu
24 of contributions pursuant to subsection 3 of section 288.090.

25 8. The ten-day period mentioned in subsection 1 of this

1 section and the thirty-day period mentioned in subsection 4 of
2 this section may, for good cause, be extended.

3 288.090. 1. Contributions shall accrue and become payable
4 by each employer for each calendar year in which he is subject to
5 this law. Such contributions shall become due and be paid by
6 each employer to the division for the fund on or before the last
7 day of the month following each calendar quarterly period of
8 three months except when regulation requires monthly payment.
9 Any employer upon application, or pursuant to a general or
10 special regulation, may be granted an extension of time, not
11 exceeding three months, for the making of his or her quarterly
12 contribution and wage reports or for the payment of such
13 contributions. Payment of contributions due shall be made to the
14 treasurer designated pursuant to section 288.290.

15 (1) In the payment of any contributions due, a fractional
16 part of a cent shall be disregarded unless it amounts to one-half
17 cent or more, in which case it shall be increased to one cent;

18 (2) Contributions shall not be deducted in whole or in part
19 from the wages of individuals in employment.

20 2. As of June thirtieth of each year, the division shall
21 establish an average industry contribution rate for the next
22 succeeding calendar year for each of the industrial
23 classification divisions listed in the [Standard Industrial
24 Classification Manual furnished] industrial classification system
25 established by the federal government. The average industry

1 contribution rate for each standard industrial classification
2 division shall be computed by multiplying total taxable wages
3 paid by each employer in the industrial classification division
4 during the twelve consecutive months ending on June thirtieth by
5 the employer's contribution rate established for the next
6 calendar year and dividing the aggregate product for all
7 employers in the industrial classification division by the total
8 of taxable wages paid by all employers in the industrial
9 classification division during the twelve consecutive months
10 ending on June thirtieth. Each employer will be assigned to [a
11 standard] an industrial classification code division as
12 determined by the division in accordance with the definitions
13 contained in the [Standard Industrial Classification Manual]
14 industrial classification system established by the federal
15 government, and shall pay contributions at the average industry
16 rate established for the preceding calendar year for the
17 industrial classification division to which it is assigned or two
18 and seven-tenths percent of taxable wages paid by it, whichever
19 is the greater, unless there have been at least twelve
20 consecutive calendar months immediately preceding the calculation
21 date throughout which its account could have been charged with
22 benefits. The division shall classify all employers meeting this
23 chargeability requirement for each calendar year in accordance
24 with their actual experience in the payment of contributions on
25 their own behalf and with respect to benefits charged against

1 their accounts, with a view to fixing such contribution rates as
2 will reflect such experience. The division shall determine the
3 contribution rate of each such employer in accordance with
4 sections 288.113 to 288.126. Notwithstanding the provisions of
5 this subsection, any employing unit which becomes an employer
6 pursuant to the provisions of subsection 7 or 8 of section
7 288.034 shall pay contributions equal to one percent of wages
8 paid by it until its account has been chargeable with benefits
9 for the period of time sufficient to enable it to qualify for a
10 computed rate on the same basis as other employers.

11 3. Benefits paid to employees of any governmental entity
12 and nonprofit organizations shall be financed in accordance with
13 the provisions of this subsection. For the purpose of this
14 subsection, a "nonprofit organization" is an organization (or
15 group of organizations) described in Section 501(c)(3) of the
16 United States Internal Revenue Code which is exempt from income
17 tax under Section 501(a) of such code.

18 (1) A governmental entity which, pursuant to subsection 7
19 of section 288.034, or nonprofit organization which, pursuant to
20 subsection 8 of section 288.034, is, or becomes, subject to this
21 law on or after April 27, 1972, shall pay contributions due under
22 the provisions of subsections 1 and 2 of this section unless it
23 elects, in accordance with this subdivision, to pay to the
24 division for the unemployment compensation fund an amount equal
25 to the amount of regular benefits and of one-half of the extended

1 benefits paid, that is attributable to service in the employ of
2 such governmental entity or nonprofit organization, to
3 individuals for weeks of unemployment which begin during the
4 effective period of such election; except that, with respect to
5 benefits paid for weeks of unemployment beginning on or after
6 January 1, 1979, any such election by a governmental entity shall
7 be to pay to the division for the unemployment compensation fund
8 an amount equal to the amount of all regular benefits and all
9 extended benefits paid that is attributable to service in the
10 employ of such governmental entity.

11 (a) A governmental entity or nonprofit organization which
12 is, or becomes, subject to this law on or after April 27, 1972,
13 may elect to become liable for payments in lieu of contributions
14 for a period of not less than one calendar year, provided it
15 files with the division a written notice of its election within
16 the thirty-day period immediately following the date of the
17 determination of such subjectivity. The provisions of paragraphs
18 (a) through (e) of subdivision (4) of subsection 1 of section
19 288.100 shall not apply in the calendar year 1998 and each
20 calendar year thereafter, in the case of an employer who has
21 elected to become liable for payments in lieu of contributions.

22 (b) A governmental entity or nonprofit organization which
23 makes an election in accordance with paragraph (a) of this
24 subdivision will continue to be liable for payments in lieu of
25 contributions until it files with the division a written notice

1 terminating its election not later than thirty days prior to the
2 beginning of the calendar year for which such termination shall
3 first be effective.

4 (c) A governmental entity or any nonprofit organization
5 which has been paying contributions under this law for a period
6 subsequent to January 1, 1972, may change to a reimbursable basis
7 by filing with the division not later than thirty days prior to
8 the beginning of any calendar year a written notice of election
9 to become liable for payments in lieu of contributions. Such
10 election shall not be terminable by the organization for that and
11 the next calendar year.

12 (d) The division, in accordance with such regulations as
13 may be adopted, shall notify each governmental entity or
14 nonprofit organization of any determination of its status of an
15 employer and of the effective date of any election which it makes
16 and of any termination of such election. Such determination
17 shall be subject to appeal as is provided in subsection 4 of
18 section 288.130.

19 (2) Payments in lieu of contributions shall be made in
20 accordance with the provisions of paragraph (a) of this
21 subdivision, as follows:

22 (a) At the end of each calendar quarter, or at the end of
23 any other period as determined by the director, the division
24 shall bill the governmental entity or nonprofit organization (or
25 group of such organizations) which has elected to make payments

1 in lieu of contributions for an amount equal to the full amount
2 of regular benefits plus one-half of the amount of extended
3 benefits paid during such quarter or other prescribed period that
4 is attributable to service in the employ of such organization;
5 except that, with respect to extended benefits paid for weeks of
6 unemployment beginning on or after January 1, 1979, which are
7 attributable to service in the employ of a governmental entity,
8 the governmental entity shall be billed for the full amount of
9 such extended benefits.

10 (b) Payment of any bill rendered under paragraph (a) of
11 this subdivision shall be due and shall be made not later than
12 thirty days after such bill was mailed to the last known address
13 of the governmental entity or nonprofit organization or was
14 otherwise delivered to it.

15 (c) Payments made by the governmental entity or nonprofit
16 organization under the provisions of this subsection shall not be
17 deducted or deductible, in whole or in part, from the
18 remuneration of individuals in the employ of the organization.

19 (d) Past due payments of amounts in lieu of contributions
20 shall be subject to the same interest and penalties that apply to
21 past due contributions. Also, unpaid amounts in lieu of
22 contributions, interest, penalties and surcharges are subject to
23 the same assessment, civil action and compromise provisions of
24 this law as apply to unpaid contributions. Further, the
25 provisions of this law which provide for the adjustment or refund

1 of contributions shall apply to the adjustment or refund of
2 payments in lieu of contributions.

3 (3) If any governmental entity or nonprofit organization
4 fails to timely file a required quarterly wage report, the
5 division shall assess such entity or organization a penalty as
6 provided in subsections 1 and 2 of section 288.160.

7 (4) Except as provided in subsection 4 of this section,
8 each employer that is liable for payments in lieu of
9 contributions shall pay to the division for the fund the amount
10 of regular benefits plus the amount of one-half of extended
11 benefits paid that are attributable to service in the employ of
12 such employer; except that, with respect to benefits paid for
13 weeks of unemployment beginning on or after January 1, 1979, a
14 governmental entity that is liable for payments in lieu of
15 contributions shall pay to the division for the fund the amount
16 of all regular benefits and all extended benefits paid that are
17 attributable to service in the employ of such employer. If
18 benefits paid to an individual are based on wages paid by more
19 than one employer in the base period of the claim, the amount
20 chargeable to each employer shall be obtained by multiplying the
21 benefits paid by a ratio obtained by dividing the base period
22 wages from such employer by the total wages appearing in the base
23 period.

24 (5) Two or more employers that have become liable for
25 payments in lieu of contributions, in accordance with the

1 provisions of subdivision (1) of this subsection, may file a
2 joint application to the division for the establishment of a
3 group account for the purpose of sharing the cost of benefits
4 paid that are attributable to service in the employ of such
5 employers. Each such application shall identify and authorize a
6 group representative to act as the group's agent for the purposes
7 of this subdivision. Upon approval of the application, the
8 division shall establish a group account for such employers
9 effective as of the beginning of the calendar quarter in which
10 the application was received and shall notify the group's
11 representative of the effective date of the account. Such
12 account shall remain in effect for not less than two years and
13 thereafter until terminated at the discretion of the director or
14 upon application by the group. Upon establishment of the
15 account, each member of the group shall be liable for payments in
16 lieu of contributions with respect to each calendar quarter in
17 the amount that bears the same ratio to the total benefits paid
18 in such quarter that are attributable to service performed in the
19 employ of all members of the group as the total wages paid for
20 service in employment by such member in such quarter bears to the
21 total wages paid during such quarter for service performed in the
22 employ of all members of the group. The director shall prescribe
23 such regulations as he or she deems necessary with respect to
24 applications for establishment, maintenance and termination of
25 group accounts that are authorized by this subdivision, for

1 addition of new members to, and withdrawal of active members
2 from, such accounts, and for the determination of the amounts
3 that are payable under this subdivision by members of the group
4 and the time and manner of such payments.

5 4. Any employer which elects to make payments in lieu of
6 contributions into the unemployment compensation fund as provided
7 in subdivision (1) of subsection 3 of this section shall not be
8 liable to make such payments with respect to the benefits paid to
9 any individual whose base period wages include wages for previous
10 work not classified as insured work as defined in section 288.030
11 to the extent that the unemployment compensation fund is
12 reimbursed for such benefits pursuant to Section 121 of Public
13 Law 94-566.

14 5. Any employer which elects to make payments in lieu of
15 contributions pursuant to subsection 3 of this section shall be
16 liable for an additional surcharge to the division for the
17 unemployment compensation trust fund in an amount equal to the
18 interest rate on United States treasury bills, averaged for the
19 previous four calendar quarters, multiplied by the total benefit
20 payments charged to the employer's account. Governmental
21 entities except cities, counties and the state of Missouri which
22 elect to make payments in lieu of contributions pursuant to
23 subsection 3 of this section shall be liable for an additional
24 surcharge to the division for the unemployment compensation fund
25 in an amount equal to one-half of the interest rate on United

1 States treasury bills, averaged for the previous four calendar
2 quarters, multiplied by the total benefit payments charged to the
3 employer's account. The cumulative benefits charged plus the
4 cumulative surcharges pursuant to this subsection for all
5 employers electing to make payments in lieu of contributions
6 shall not exceed the summation of total benefit payments
7 chargeable and not chargeable for the calendar quarter. The
8 provisions of this subsection shall not be effective after
9 September 30, 1993.

10 6. Beginning October 1, 1993, through December 31, 1993,
11 any employer which elects to make payments in lieu of
12 contributions pursuant to subsection 3 of this section shall be
13 liable for an additional surcharge to the division for the
14 unemployment compensation trust fund in an amount equal to the
15 interest rate of United States treasury bills, averaged for the
16 previous four calendar quarters, multiplied by the total benefit
17 payments charged to the employer's account. The cumulative
18 benefits charged plus the cumulative surcharges pursuant to this
19 subsection for all employers electing to make payments in lieu of
20 contributions shall not exceed the summation of total benefit
21 payments chargeable and not chargeable for the calendar quarter.

22 7. Beginning January 1, 1994, through December 31, 1995,
23 any employer which elects to make payments in lieu of
24 contributions pursuant to subsection 3 of this section shall be
25 liable for an additional surcharge to the division for the

1 unemployment compensation trust fund. The calendar year
2 surcharge rate will be the base prime rate on corporate loans
3 posted by at least seventy-five percent of the nation's thirty
4 largest banks as of November thirtieth of the preceding year.
5 The additional surcharge will be the surcharge rate multiplied by
6 the total benefit payments charged to the employer's account.
7 The cumulative benefits charged plus the cumulative surcharges
8 pursuant to this subsection for all employers electing to make
9 payments in lieu of contributions shall not exceed the summation
10 of total benefit payments chargeable and not chargeable for the
11 calendar quarter.

12 8. Beginning January 1, 1996, through December 31, 1996,
13 any employer which elects to make payments in lieu of
14 contributions pursuant to subsection 3 of this section shall be
15 liable for the total benefit payments chargeable to its account
16 pursuant to the provisions of section 288.100 plus one-third of
17 the total benefit payments not charged to its account pursuant to
18 paragraphs (a) through (e) of subdivision (4) of subsection 1 of
19 section 288.100. The remaining two-thirds of the benefit
20 payments not charged to its account pursuant to paragraphs (a)
21 through (e) of subdivision (4) of subsection 1 of section 288.100
22 shall be paid by the unemployment compensation trust fund.

23 9. Beginning January 1, 1997, through December 31, 1997,
24 any employer which elects to make payments in lieu of
25 contributions pursuant to subsection 3 of this section shall be

1 liable for the total benefit payments chargeable to its account
2 pursuant to the provisions of section 288.100 plus two-thirds of
3 the total benefit payments not charged to its account pursuant to
4 paragraphs (a) through (e) of subdivision (4) of subsection 1 of
5 section 288.100. The remaining one-third of the benefit payments
6 not charged to its account pursuant to paragraphs (a) through (e)
7 of subdivision (4) of subsection 1 of section 288.100 shall be
8 paid by the unemployment compensation trust fund.

9 10. Beginning January 1, 1998, and each calendar year
10 thereafter, any employer which elects to make payments in lieu of
11 contributions pursuant to subsection 3 of this section shall be
12 liable for all benefit payments and shall not have charges
13 relieved pursuant to the provisions of paragraphs (a) through (e)
14 of subdivision (4) of subsection 1 of section 288.100.

15 11. (1) For the purposes of this chapter, a common
16 paymaster arrangement will not exist unless approval has been
17 obtained from the division. To receive a division-approved
18 common paymaster arrangement, the related corporation designated
19 to be the common paymaster for the related corporations must
20 notify the division in writing at least thirty days prior to the
21 beginning of the quarter in which the common paymaster reporting
22 is to be effective. The common paymaster shall furnish the name
23 and account number of each corporation in the related group that
24 will be utilizing the one corporation as the common paymaster.
25 The common paymaster shall also notify the division at least

1 thirty days prior to any change in the related group of
2 corporations or termination of the common paymaster arrangement.
3 The common paymaster shall be responsible for keeping books and
4 records for the payroll with respect to its own employees and the
5 concurrently employed individuals of the related corporations.
6 In order for remuneration to be eligible for the provisions
7 applicable to a common paymaster, the individuals must be
8 concurrently employed and the remuneration must be disbursed
9 through the common paymaster. The common paymaster shall have
10 the primary responsibility for remitting all required quarterly
11 contribution and wage reports, contributions due with respect to
12 the remuneration it disburses as the common paymaster and/or
13 payments in lieu of contributions. The common paymaster shall
14 compute the contributions due as though it were the sole employer
15 of the concurrently employed individuals. If the common
16 paymaster fails to remit the quarterly contribution and wage
17 reports, contributions due and/or payments in lieu of
18 contributions, in whole or in part, it shall remain liable for
19 submitting the quarterly contribution and wage reports and the
20 full amount of the unpaid portion of the contributions due and/or
21 payments in lieu of contributions. In addition, each of the
22 related corporations using the common paymaster shall be jointly
23 and severally liable for submitting quarterly contribution and
24 wage reports, its share of the contributions due and/or payments
25 in lieu of contributions, penalties, interest and surcharges

1 which are not submitted and/or paid by the common paymaster. All
2 contributions due, payments in lieu of contributions, penalties,
3 interest and surcharges which are not timely paid to the division
4 under a common paymaster arrangement shall be subject to the
5 collection provisions of this chapter.

6 (2) For the purposes of this subsection, "concurrent
7 employment" means the simultaneous existence of an employment
8 relationship between an individual and two or more related
9 corporations for any calendar quarter in which employees are
10 compensated through a common paymaster which is one of the
11 related corporations, those corporations shall be considered one
12 employing unit and be subject to the provisions of this chapter.

13 (3) For the purposes of this subsection, "related
14 corporations" means that corporations shall be considered related
15 corporations for an entire calendar quarter if they satisfy any
16 one of the following tests at any time during the calendar
17 quarter:

18 (a) The corporations are members of a "controlled group of
19 corporations". The term "controlled group of corporations"
20 means:

21 a. Two or more corporations connected through stock
22 ownership with a common parent corporation, if the parent
23 corporation owns stock possessing at least fifty percent of the
24 total combined voting power of all classes of stock entitled to
25 vote or at least fifty percent of the total value of shares of

1 all classes of stock of each of the other corporations; or

2 b. Two or more corporations, if five or less persons who
3 are individuals, estates or trusts own stock possessing at least
4 fifty percent of the total combined voting power of all classes
5 of stock entitled to vote or at least fifty percent of the total
6 value of shares of all classes of stock of each of the other
7 corporations; or

8 (b) In the case of corporations which do not issue stock,
9 at least fifty percent of the members of one corporation's board
10 of directors are members of the board of directors of the other
11 corporations; or

12 (c) At least fifty percent of one corporation's officers
13 are concurrently officers of the other corporations; or

14 (d) At least thirty percent of one corporation's employees
15 are concurrently employees of the other corporations.

16 288.100. 1. (1) The division shall maintain a separate
17 account for each employer which is paying contributions, and
18 shall credit each employer's account with all contributions which
19 each employer has paid. A separate account shall be maintained
20 for each employer making payments in lieu of contributions to
21 which shall be credited all such payments made. The account
22 shall also show payments due as provided in section 288.090. The
23 division may close and cancel such separate account after a
24 period of four consecutive calendar years during which such
25 employer has had no employment in this state subject to

1 contributions. Nothing in this law shall be construed to grant
2 any employer or individuals in the employer's service prior
3 claims or rights to the amounts paid by the employer into the
4 fund either on the employer's own behalf or on behalf of such
5 individuals. Except as provided in subdivision (4) of this
6 subsection, regular benefits and that portion of extended
7 benefits not reimbursed by the federal government paid to an
8 eligible individual shall be charged against the accounts of the
9 individual's base period employers who are paying contributions
10 subject to the provisions of subdivision (4) of subsection 3 of
11 section 288.090. With respect to initial claims filed after
12 December 31, 1984, for benefits paid to an individual based on
13 wages paid by one or more employers in the base period of the
14 claim, the amount chargeable to each employer shall be obtained
15 by multiplying the benefits paid by a ratio obtained by dividing
16 the base period wages from such employer by the total wages
17 appearing in the base period. Except as provided in paragraph
18 (a) of this subdivision, the maximum amount of extended benefits
19 paid to an individual and charged against the account of any
20 employer shall not exceed one-half of the product obtained by
21 multiplying the benefits paid by a ratio obtained by dividing the
22 base period wages from such employer by the total wages appearing
23 in the base period.

24 (a) The provisions of subdivision (1) of this subsection
25 notwithstanding, with respect to weeks of unemployment beginning

1 after December 31, 1978, the maximum amount of extended benefits
2 paid to an individual and charged against the account of an
3 employer which is an employer pursuant to subdivision (3) of
4 subsection 1 of section 288.032 and which is paying contributions
5 pursuant to subsections 1 and 2 of section 288.090 shall not
6 exceed the calculated entitlement for the extended benefit claim
7 based upon the wages appearing within the base period of the
8 extended benefit claim.

9 (2) Beginning as of June 30, 1951, and as of June thirtieth
10 of each year thereafter, any unassigned surplus in the
11 unemployment compensation fund which is five hundred thousand
12 dollars or more in excess of five-tenths of one percent of the
13 total taxable wages paid by all employers for the preceding
14 calendar year as shown on the division's records on such June
15 thirtieth shall be credited on a pro rata basis to all employer
16 accounts having a credit balance in the same ratio that the
17 balance in each such account bears to the total of the credit
18 balances subject to use for rate calculation purposes for the
19 following year in all such accounts on the same date. As used in
20 this subdivision, the term "unassigned surplus" means the amount
21 by which the total cash balance in the unemployment compensation
22 fund exceeds a sum equal to the total of all employer credit
23 account balances. The amount thus prorated to each separate
24 employer's account shall for tax rating purposes be considered
25 the same as contributions paid by the employer and credited to

1 the employer's account for the period preceding the calculation
2 date except that no such amount can be credited against any
3 contributions due or that may thereafter become due from such
4 employer.

5 (3) At the conclusion of each calendar quarter the division
6 shall, within thirty days, notify each employer by mail of the
7 benefits paid to each claimant by week as determined by the
8 division which have been charged to such employer's account
9 subsequent to the last notice.

10 (4) (a) No benefits based on wages paid for services
11 performed prior to the date of any act for which a claimant is
12 disqualified pursuant to section 288.050 shall be chargeable to
13 any employer directly involved in such disqualifying act.

14 (b) In the event the deputy has in due course determined
15 pursuant to paragraph (a) of subdivision (1) of subsection 1 of
16 section 288.050 that a claimant quit his work with an employer
17 for the purpose of accepting a more remunerative job with another
18 employer which the claimant did accept and earn some wages
19 therein, no benefits based on wages paid prior to the date of the
20 quit shall be chargeable to the employer the claimant quit.

21 (c) In the event the deputy has in due course determined
22 pursuant to paragraph (b) of subdivision (1) of subsection 1 of
23 section 288.050 that a claimant quit temporary work in employment
24 with an employer to return to the claimant's regular employer,
25 then, only for the purpose of charging base period employers, all

1 of the wages paid by the employer who furnished the temporary
2 employment shall be combined with the wages actually paid by the
3 regular employer as if all such wages had been actually paid by
4 the regular employer. Further, charges for benefits based on
5 wages paid for part-time work shall be removed from the account
6 of the employer furnishing such part-time work if that employer
7 continued to employ the individual claiming such benefits on a
8 regular recurring basis each week of the claimant's claim to at
9 least the same extent that the employer had previously employed
10 the claimant and so informs the division within thirty days from
11 the date of notice of benefit charges.

12 (d) No charge shall be made against an employer's account
13 in respect to benefits paid an individual if the gross amount of
14 wages paid by such employer to such individual is four hundred
15 dollars or less during the individual's base period on which the
16 individual's benefit payments are based. Further, no charge
17 shall be made against any employer's account in respect to
18 benefits paid any individual unless such individual was in
19 employment with respect to such employer longer than a
20 probationary period of twenty-eight days, if such probationary
21 period of employment has been reported to the division as
22 required by regulation.

23 (e) In the event the deputy has in due course determined
24 pursuant to paragraph (c) of subdivision (1) of subsection 1 of
25 section [228.050] 288.050 that a claimant is not disqualified, no

1 benefits based on wages paid for work prior to the date of the
2 quit shall be chargeable to the employer the claimant quit.

3 (f) Nothing in paragraph (b), (c), (d) or (e) of this
4 subdivision shall in any way affect the benefit amount, duration
5 of benefits or the wage credits of the claimant.

6 2. The division may prescribe regulations for the
7 establishment, maintenance, and dissolution of joint accounts by
8 two or more employers, and shall, in accordance with such
9 regulations and upon application by two or more employers to
10 establish such an account, or to merge their several individual
11 accounts in a joint account, maintain such joint account as if it
12 constituted a single employer's account.

13 3. The division may by regulation provide for the
14 compilation and publication of such data as may be necessary to
15 show the amounts of benefits not charged to any individual
16 employer's account classified by reason no such charge was made
17 and to show the types and amounts of transactions affecting the
18 unemployment compensation fund.

19 288.110. Any individual, type of organization or employing
20 unit which has acquired substantially all of the business of an
21 employer, excepting in any such case any assets retained by such
22 employer incident to the liquidation of his obligations, and in
23 respect to which the division finds that immediately after such
24 change such business of the predecessor employer is continued
25 without interruption solely by the successor, shall stand in the

1 position of such predecessor employer in all respects, including
2 the predecessor's separate account, actual contribution and
3 benefit experience, annual payrolls, and liability for current or
4 delinquent contributions, interest and penalties. If two or more
5 individuals, organizations, or employing units acquired at
6 approximately the same time substantially all of the business of
7 an employer (excepting in any such case any assets retained by
8 such employer incident to the liquidation of his obligations) and
9 in respect to which the division finds that immediately after
10 such change all portions of such business of the predecessor are
11 continued without interruption solely by such successors, each
12 such individual, organization, or employing unit shall stand in
13 the position of such predecessor with respect to the
14 proportionate share of the predecessor's separate account, actual
15 contribution and benefit experience and annual payroll as
16 determined by the portion of the predecessor's taxable payroll
17 applicable to the portion of the business acquired, and each such
18 individual, organization or employing unit shall be liable for
19 current or delinquent contributions, interest and penalties of
20 the predecessor in the same relative proportion. Further, any
21 successor under this section which was not an employer at the
22 time the acquisition occurred, shall pay contributions for the
23 balance of the current rate year at the same contribution rate as
24 the contribution rate of the predecessor whether such rate is
25 more or less than two and seven-tenths percent, provided there

1 was only one predecessor or there were only predecessors with
2 identical rates. If the predecessors' rates were not identical,
3 the division shall calculate a rate as of the date of acquisition
4 applicable to the successor for the remainder of the rate year,
5 which rate shall be based on the combined experience of all
6 predecessor employers. In the event that any successor was,
7 prior to an acquisition, an employer, and there is a difference
8 in the contribution rate established for such calendar year
9 applicable to any acquired or acquiring employer, the division
10 shall make a recalculation [as of the date of acquisition] of the
11 contribution rate applicable to any successor employer based upon
12 the combined experience of all predecessor and successor
13 employers[, which] as of the date of the acquisition, unless the
14 date of the acquisition is other than the first day of the
15 calendar quarter. If the date of any such acquisition is other
16 than the first day of the calendar quarter the division shall
17 make the recalculation of the rate on the first day of the next
18 calendar quarter after the acquisition. When the date of the
19 acquisition is other than the first day of a calendar quarter,
20 the successor employer shall use its rate for the calendar
21 quarter in which the acquisition was made. The revised
22 contribution rate shall apply to employment after the [date of
23 any such acquisition] rate recalculation. For this purpose a
24 calculation date different from July first may be established.
25 When the division has determined that a successor or successors

stand in the position of a predecessor employer, the predecessor's liability shall be terminated as of the date of the acquisition.

288.120. 1. On each June thirtieth, or within a reasonable time thereafter as may be fixed by regulation, the balance of an employer's experience rating account, except an employer participating in a shared work plan under section 288.500, shall determine his contribution rate for the following calendar year as determined by the following table:

Percentage the Employer's Experience Rating Account is to that Employer's Average Annual Payroll		
Equals or Exceeds	Less Than	Contribution Rate
-----	-12.0	6.0%
-12.0	-11.0	5.8%
-11.0	-10.0	5.6%
-10.0	-9.0	5.4%
-9.0	-8.0	5.2%
-8.0	-7.0	5.0%
-7.0	-6.0	4.8%
-6.0	-5.0	4.6%
-5.0	-4.0	4.4%
-4.0	-3.0	4.2%
-3.0	-2.0	4.0%
-2.0	-1.0	3.8%

1	-1.0	0	3.6%
2	0	2.5	2.7%
3	2.5	3.5	2.6%
4	3.5	4.5	2.5%
5	4.5	5.0	2.4%
6	5.0	5.5	2.3%
7	5.5	6.0	2.2%
8	6.0	6.5	2.1%
9	6.5	7.0	2.0%
10	7.0	7.5	1.9%
11	7.5	8.0	1.8%
12	8.0	8.5	1.7%
13	8.5	9.0	1.6%
14	9.0	9.5	1.5%
15	9.5	10.0	1.4%
16	10.0	10.5	1.3%
17	10.5	11.0	1.2%
18	11.0	11.5	1.1%
19	11.5	12.0	1.0%
20	12.0	12.5	0.9%
21	12.5	13.0	0.8%
22	13.0	13.5	0.6%
23	13.5	14.0	0.4%
24	14.0	14.5	0.3%
25	14.5	15.0	0.2%

1 15.0 --- 0.0%

2 2. Using the same mathematical principles used in
3 constructing the table provided in subsection 1 of this section,
4 the following table has been constructed. The contribution rate
5 for the following calendar year of any employer participating in
6 a shared work plan under section 288.500 during the current
7 calendar year or any calendar year during a prior three-year
8 period shall be determined from the balance in such employer's
9 experience rating account as of the previous June thirtieth, or
10 within a reasonable time thereafter as may be fixed by
11 regulation, from the following table:

12	Percentage the Employer's Experience Rating		
13	Account is to that Employer's Average Annual Payroll		
14	Equals or Exceeds	Less Than	Contribution Rate
15	-----	-27.0	9.0%
16	-27.0	-26.0	8.8%
17	-26.0	-25.0	8.6%
18	-25.0	-24.0	8.4%
19	-24.0	-23.0	8.2%
20	-23.0	-22.0	8.0%
21	-22.0	-21.0	7.8%
22	-21.0	-20.0	7.6%
23	-20.0	-19.0	7.4%
24	-19.0	-18.0	7.2%

1	-18.0	-17.0	7.0%
2	-17.0	-16.0	6.8%
3	-16.0	-15.0	6.6%
4	-15.0	-14.0	6.4%
5	-14.0	-13.0	6.2%
6	-13.0	-12.0	6.0%
7	-12.0	-11.0	5.8%
8	-11.0	-10.0	5.6%
9	-10.0	-9.0	5.4%
10	-9.0	-8.0	5.2%
11	-8.0	-7.0	5.0%
12	-7.0	-6.0	4.8%
13	-6.0	-5.0	4.6%
14	-5.0	-4.0	4.4%
15	-4.0	-3.0	4.2%
16	-3.0	-2.0	4.0%
17	-2.0	-1.0	3.8%
18	-1.0	0	3.6%
19	0	2.5	2.7%
20	2.5	3.5	2.6%
21	3.5	4.5	2.5%
22	4.5	5.0	2.4%
23	5.0	5.5	2.3%
24	5.5	6.0	2.2%
25	6.0	6.5	2.1%

1	6.5	7.0	2.0%
2	7.0	7.5	1.9%
3	7.5	8.0	1.8%
4	8.0	8.5	1.7%
5	8.5	9.0	1.6%
6	9.0	9.5	1.5%
7	9.5	10.0	1.4%
8	10.0	10.5	1.3%
9	10.5	11.0	1.2%
10	11.0	11.5	1.1%
11	11.5	12.0	1.0%
12	12.0	12.5	0.9%
13	12.5	13.0	0.8%
14	13.0	13.5	0.6%
15	13.5	14.0	0.4%
16	14.0	14.5	0.3%
17	14.5	15.0	0.2%
18	15.0	----	0.0%

3. Notwithstanding the provisions of subsection 2 of
 section 288.090, any employer participating in a shared work plan
 under section 288.500, who has not had at least twelve calendar
 months immediately preceding the calculation date throughout
 which his account could have been charged with benefits shall
 have a contribution rate equal to the highest contribution rate
 in the table in subsection 2 of this section, until such time as

his account has been chargeable with benefits for the period of time sufficient to enable him to qualify for a computed rate on the same basis as other employers participating in shared work plans.

4. For each second and subsequent year an employer's experience rating exceeds less than a minus twelve percentage as compared to that employer's average annual payroll, the contribution rate will be assessed an additional one-quarter percent, until the contribution rate equals seven percent, at which point in the subsequent year it will be assessed an additional one-half percent, but at no point shall any contribution rate exceed seven and one-half percent.

288.121. 1. On October first of each calendar year, if the average balance, less any federal advances, of the unemployment compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first and December thirty-first of the preceding calendar year) is less than four hundred fifty million dollars, then each employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be increased by the percentage determined from the following table:

Balance in Trust Fund				Percentage of Increase
Less Than	Equals or Exceeds			
[\$400,000,000]	<u>\$450,000,000</u>	[\$350,000,000]	<u>\$400,000,000</u>	10%

1	[\$350,000,000] <u>\$400,000,000</u> [\$300,000,000] <u>\$350,000,000</u>	20%
2	[\$300,000,000] <u>\$350,000,000</u>	30%

3 [Notwithstanding the table in this section, each employer's
4 contribution rate calculated for the four calendar quarters of
5 calendar year 1994 shall be increased by forty percent, instead
6 of thirty percent, as previously indicated in the table in this
7 section. After the forty percent increase, each employer's
8 contribution rate for the four calendar quarters of calendar year
9 1994 shall be increased by adding three-tenths of one percent.]
10 For calendar years 2005, 2006, and 2007, the contribution rate of
11 any employer who is paying the maximum contribution rate shall be
12 increased by forty percent, instead of thirty percent as
13 previously indicated in the table in this section.

14 2. For calendar years 2005, 2006, and 2007, an employer's
15 total contribution rate shall equal the employer's contribution
16 rate plus a temporary debt indebtedness assessment equal to the
17 amount to be determined in subdivision (6) of subsection 2 of
18 section 288.330 added to the contribution rate plus the increase
19 authorized under subsection 1 of this section. Any moneys
20 overcollected beyond the actual administrative, interest, and
21 principal repayment costs for the credit instruments used shall
22 be deposited into the state unemployment compensation fund and
23 credited to the employer's experience account. The temporary
24 debt indebtedness assessment shall expire upon the last day of

the fourth calendar quarter of 2007.

288.122. On October first of each calendar year, if the average balance, less any federal advances, of the unemployment compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first and December thirty-first of the preceding calendar year) is more than five hundred million dollars, then each employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be decreased by the percentage determined from the following table:

Balance in Trust Fund		Percentage
More Than	But Less Than	of Decrease
[\$500,000,000	\$600,000,000]	
<u>\$600,000,000</u>	<u>\$750,000,000</u>	7%
[\$600,000,000]		
<u>\$750,000,000</u>		12%

Notwithstanding the table in this section, if the balance in the unemployment insurance compensation trust fund as calculated in this section is more than [six] seven hundred fifty million dollars, the percentage of decrease of the employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be no greater than ten percent for any employer whose calculated contribution rate under section

1 288.120 is six percent or greater.

2 288.128. 1. In addition to all other contributions due
3 under this chapter, if the fund is utilizing moneys advanced by
4 the federal government under the provisions of 42 U.S.C.A.,
5 section 1321 pursuant to section 288.330[,], or if the fund is not
6 utilizing moneys advanced by the federal government, then from
7 the proceeds of credit instruments issued under section 288.330,
8 or from the moneys advanced under financial agreements under
9 subdivision (17) of subsection 2 of section 288.330, or a
10 combination of credit instruments proceeds and moneys advanced
11 under financial agreements, each employer shall be assessed an
12 amount solely for the payment of interest due on such federal
13 advancements, or if the fund is not utilizing moneys advanced by
14 the federal government, or in the case of issuance of credit
15 instruments for the payment of the principal, interest, and
16 administrative expenses related to such credit instruments, or in
17 the case of financial agreements for the payment of principal,
18 interest, and administrative expenses related to such financial
19 agreements, or in the case of a combination of credit instruments
20 and financial agreements for the payment of principal, interest,
21 and administrative expenses for both. The rate shall be
22 determined by dividing the interest due on federal advancements
23 or if the fund is not utilizing moneys advanced by the federal
24 government, then the principal, interest, and administrative
25 expenses related to credit instruments, or the principal,

1 interest, and administrative expenses related to financial
2 agreements under subdivision (17) of subsection 2 of section
3 288.330, or the principal, interest, and administrative expenses
4 related to a combination of credit instruments and financial
5 agreements by ninety-five percent of the total taxable wages paid
6 by all Missouri employers in the preceding calendar year. Each
7 employer's proportionate share shall be the product obtained by
8 multiplying such employer's total taxable wages for the preceding
9 calendar year by the rate specified in this section. Each
10 employer shall be notified of the amount due under this section
11 by June thirtieth of each year and such amount shall be
12 considered delinquent thirty days thereafter. The moneys
13 collected from each employer for the payment of interest due on
14 federal advances or if the fund is not utilizing moneys advanced
15 by the federal government, then the payment of principal,
16 interest, and administrative expenses related to credit
17 instruments, or the payment of the principal, interest, and
18 administrative expenses related to financial agreements under
19 subdivision (17) of subsection 2 of section 288.330, or the
20 payment of the principal, interest, and administrative expenses
21 related to a combination of credit instruments and financial
22 agreements, shall be deposited in the special employment security
23 fund.

24 2. If on December thirty-first of any year the money
25 collected under this section exceeds the amount of interest due

1 on federal advancements by one hundred thousand dollars or more,
2 then each employer's experience rating account shall be credited
3 with an amount which bears the same ratio to the excess moneys
4 collected under this section as that employer's payment collected
5 under this section bears to the total amount collected under this
6 section. Further, if on December thirty-first of any year the
7 moneys collected under this section exceed the amount of interest
8 due on the federal advancements by less than one hundred thousand
9 dollars, the balance shall be transferred from the special
10 employment security fund to the Secretary of the Treasury of the
11 United States to be credited to the account of this state in the
12 unemployment trust fund.

13 288.175. 1. Notwithstanding any other provisions to the
14 contrary, the division may collect any debt by interception of
15 the debtor's federal income tax refund, in the manner and to the
16 extent allowed by federal law.

17 2. "Debt" shall mean any established overpayment or sum
18 past due that is legally owed and enforceable under the Missouri
19 employment security law, which has accrued through contract or
20 operation of law and which has become final under state law and
21 remains uncollected.

22 3. "Debtor" shall mean any individual, sole proprietorship,
23 partnership, corporation, limited liability company, or other
24 legal entity owing a debt.

25 288.290. 1. There is hereby established as a special fund,

1 separate and apart from all public moneys or funds of this state,
2 an "Unemployment Compensation Fund", which shall be administered
3 by the division exclusively for the purposes of this law. This
4 fund shall consist of:

5 (1) All contributions and payments in lieu of contributions
6 collected under this law;

7 (2) Interest earned upon any moneys in the fund;

8 (3) Any property or securities acquired through the use of
9 moneys belonging to the fund;

10 (4) All earnings of such property or securities;

11 (5) All voluntary contributions permitted under the law;

12 and

13 (6) All funds set aside or appropriated by the Congress of
14 the United States or any federal agency, to be deposited to the
15 fund. All moneys in the funds shall be mingled and undivided,
16 except that all money credited to this state's account in the
17 Unemployment Trust Fund pursuant to Section 903 of the Social
18 Security Act, as amended, and which has been appropriated for
19 expenses of administration, shall be used only for the purposes
20 set out in subsection 5 of this section and shall not be included
21 in the cash balance in the unemployment compensation fund for the
22 purposes of sections 288.100 and 288.113 to 288.126.

23 2. The director shall designate a treasurer and custodian
24 of the fund and he or she shall administer the fund and shall
25 issue his or her warrants upon it in accordance with such

1 regulations as the director shall prescribe. He or she shall
2 maintain within the fund three separate accounts:

3 (1) A clearing account;

4 (2) An unemployment trust fund account; and

5 (3) A benefit account.

6 To ensure that unemployment compensation fund moneys are not
7 diverted and are utilized only for the purposes authorized no
8 other fund shall be established with increased employer taxes
9 that are offset by a reduction of unemployment contributions.

10 3. All moneys payable to the fund, upon their receipt by
11 the division, shall immediately be deposited in the clearing
12 account. Refunds of contributions or payments made necessary
13 under the provisions of sections 288.140 and 288.340 may be paid
14 from the clearing account or the benefit account. After
15 clearance, all moneys in the clearing account shall be
16 immediately deposited with the Secretary of the Treasury of the
17 United States of America to the credit of the account of this
18 state in the Unemployment Trust Fund, established and maintained
19 pursuant to Section 904 of the Social Security Act, as amended,
20 any provisions of law in this state relating to the deposit,
21 administration, release, or disbursement of state moneys in the
22 possession or custody of the state treasurer to the contrary
23 notwithstanding. The benefit account shall consist of all moneys
24 requisitioned from the Missouri account in the federal

1 Unemployment Trust Fund. Except as otherwise provided, moneys in
2 the clearing and benefit accounts may be deposited in any bank or
3 public depository in which general funds of the state may be
4 deposited, but no public deposit insurance charge or premium
5 shall be paid out of the fund. Moneys in the clearing and
6 benefit accounts shall not be commingled with other state funds
7 but shall be maintained in separate accounts on the books of the
8 depository bank. All funds required by this law to be deposited
9 in any state depository shall be secured by such depository to
10 the same extent and in the same manner as is or may hereafter be
11 required by section 30.270, RSMo, and all the amendments thereto;
12 provided, that the division shall do those acts directed to be
13 done by the governor, attorney general and state treasurer, or
14 any of them, under section 30.270, RSMo, which are not
15 inconsistent with the other provisions of this law. Collateral
16 pledged for this purpose shall be kept separate and distinct from
17 any collateral pledged to secure other funds of the state, or, if
18 combined, shall be first used to satisfy and make whole the
19 accounts herein established. The treasurer shall give a separate
20 bond conditioned upon the faithful performance of his or her
21 duties as custodian of the fund in an amount not to exceed
22 twenty-five thousand dollars and in the form prescribed by law or
23 approved by the attorney general. Premiums for such bonds shall
24 be paid from the administration fund. All sums recovered for
25 losses sustained by the fund shall be deposited therein.

1 4. Moneys shall be requisitioned from the Missouri account
2 in the federal Unemployment Trust Fund solely for the payment of
3 benefits or for refunds of contributions or payments in lieu of
4 contributions in accordance with regulations prescribed by the
5 director, except that money credited to this state's account
6 pursuant to Section 903 of the Social Security Act, as amended,
7 shall be used exclusively as provided in subsection 5 of this
8 section. The director shall from time to time requisition from
9 the federal Unemployment Trust Fund such amounts, not exceeding
10 the amounts standing to the Missouri account therein, as he or
11 she deems necessary for the payment of benefits and refunds for a
12 reasonable future period. Upon its receipt the treasurer shall
13 deposit such money in the benefit account and shall issue his or
14 her warrants for the payment of benefits solely from such benefit
15 account. Expenditures of such moneys in the benefit account and
16 refunds from the clearing account shall not be subject to any
17 provisions of law requiring specific appropriations or other
18 formal release by state officers of moneys belonging to this
19 state in their custody. All warrants issued by the treasurer for
20 the payment of benefits and refunds shall bear the signature of
21 the treasurer and the countersignature of the director or other
22 duly authorized division representative. Any balance of moneys
23 requisitioned from the federal Unemployment Trust Fund which
24 remains unclaimed or unpaid in the benefit account after the
25 expiration of the period for which such sums were requisitioned

1 shall either be deducted from estimates for, and may be utilized
2 for the payment of, benefits during succeeding periods, or, in
3 the discretion of the director, shall be redeposited with the
4 Secretary of the Treasury of the United States of America to the
5 credit of the Missouri account in the federal Unemployment Trust
6 Fund as provided in subsection 3 of this section.

7 5. (1) Money credited to the account of this state in the
8 Unemployment Trust Fund by the Secretary of the Treasury of the
9 United States of America pursuant to Section 903 of the Social
10 Security Act, as amended, may be requisitioned and used for the
11 payment of expenses incurred for the administration of this law
12 pursuant to a specific appropriation by the legislature, provided
13 that the expenses are incurred and the money is requisitioned as
14 needed after the enactment of an appropriation law which:

15 (a) Specifies the purpose for which such money is
16 appropriated and the amounts appropriated therefor;

17 (b) Limits the period within which such money may be
18 obligated to a period ending not more than two years after the
19 date of the enactment of the appropriation law; and

20 (c) Limits the amount which may be obligated during a
21 twelve-month period beginning on July first and ending on the
22 next June thirtieth to an amount which does not exceed the amount
23 by which the aggregate of the amount transferred to the account
24 of this state in the Unemployment Trust Fund pursuant to
25 subsections (a) and (b) of Section 903 of the Social Security

1 Act, as amended, exceeds the aggregate of the amounts used by
2 this state pursuant to this subsection and charged against the
3 amounts transferred to the account of this state in the
4 Unemployment Trust Fund.

5 (2) The use of the money referred to in subdivision (1) of
6 this subsection shall be accounted for in accordance with
7 standards established by the Secretary of Labor.

8 (3) For purposes of subdivision (1) of this subsection,
9 amounts used by this state for administration shall be chargeable
10 against transferred amounts at the exact time the obligation is
11 entered into.

12 (4) Money credited to the account of this state pursuant to
13 Section 903 of the Social Security Act, as amended, may not be
14 withdrawn or used except for the payment of benefits and for the
15 payment of expenses for the administration of this law and of
16 public employment offices pursuant to this subsection.

17 (5) Money appropriated as provided under subdivision (1) of
18 this subsection for the payment of expenses of administration
19 shall be requisitioned as needed for the payment of obligations
20 incurred under such appropriation and, upon requisition, shall be
21 deposited in the unemployment compensation administration fund
22 from which such payments shall be made. Money so deposited
23 shall, until expended, remain a part of the unemployment
24 compensation fund and, if it will not be expended, shall be
25 returned promptly to the account of this state in the

1 Unemployment Trust Fund.

2 (6) Money credited to the account of the state in the
3 federal Unemployment Trust Fund by the Secretary of the Treasury
4 of the United States of America pursuant to Title 42, Section 903
5 of the Social Security Act with respect to the federal fiscal
6 years 1999, 2000 and 2001, shall be used solely for the
7 administration of the unemployment compensation program.

8 6. The provisions of subsections 1, 2, 3, 4, and 5 of this
9 section, to the extent that they relate to the federal
10 Unemployment Trust Fund, shall be operative only so long as such
11 federal Unemployment Trust Fund continues to exist and so long as
12 the Secretary of the Treasury of the United States of America
13 continues to maintain a separate book account of all funds
14 deposited therein by contributions from employers of this state
15 for benefit purposes, and by money credited pursuant to Section
16 903 of the Social Security Act, as amended, together with a
17 proportionate share of the earnings apportioned to the Missouri
18 account of such federal Unemployment Trust Fund, from which no
19 other state is permitted to make or authorize withdrawals. If
20 and when such Unemployment Trust Fund ceases to exist, or such
21 separate book account is no longer maintained, all moneys,
22 properties, or securities therein belonging to the unemployment
23 compensation fund of this state shall be transferred to the
24 treasurer of the unemployment compensation fund, who shall hold,
25 invest, transfer, sell, deposit, and release such moneys,

1 properties or securities in a manner approved by the director in
2 accordance with the provisions of this law; provided, that such
3 moneys shall be invested in the following readily marketable
4 classes of securities: bonds or other interest-bearing
5 obligations of the United States of America, or securities on
6 which the payment of principal and interest are guaranteed by the
7 United States of America, and bonds or other interest-bearing
8 obligations of the state of Missouri; and provided, further, that
9 such investments shall at all times be so made that all the
10 assets of the fund shall always be readily convertible into cash
11 when needed for the payment of benefits. The treasurer shall
12 dispose of securities or other properties belonging to the
13 unemployment compensation fund only under the direction of the
14 director.

15 7. Notwithstanding any other provision of this law, any
16 interest or penalties found to have been erroneously collected
17 and which is ordered to be refunded shall, if paid into the
18 unemployment compensation fund, be refunded out of the
19 unemployment compensation fund and, if paid into the special
20 employment security fund, shall be refunded out of the special
21 employment security fund; except that, in the event any interest
22 and penalties paid into the unemployment compensation fund shall
23 be transferred to the special employment security fund, the
24 refund of any such interest and penalties shall be made from the
25 special employment security fund.

1 288.310. 1. There is hereby created in the state treasury
2 a special fund to be known as the "Special Employment Security
3 Fund". All interest and penalties collected under the provisions
4 of this law, including moneys collected pursuant to section
5 288.128 for the payment of interest due on federal advances
6 received pursuant to section 288.330, or if the fund is not
7 utilizing moneys advanced by the federal government, then the
8 payment of principal, interest, and administrative expenses
9 related to credit instruments issued under section 288.330, or
10 the payment of the principal, interest, and administrative
11 expenses related to financial agreements under subdivision (17)
12 of subsection 2 of section 288.330, or the payment of the
13 principal, interest, and administrative expenses related to a
14 combination of credit instruments and financial agreements shall
15 be paid into this fund. The moneys collected pursuant to section
16 288.128 shall be used [exclusively] for the payment of interest
17 due on federal advances received pursuant to section 288.330, or
18 if the fund is not utilizing moneys advanced by the federal
19 government, then the payment of principal, interest, and
20 administrative expenses related to credit instruments issued
21 under that section, or the payment of principal, interest, and
22 administrative expenses related to financial agreements under
23 subdivision (17) of subsection 2 of section 288.330, or the
24 payment of the principal, interest, and administrative expenses
25 related to a combination of credit instruments and financial

1 agreements. Such moneys, except for moneys collected pursuant to
2 section 288.128, shall not be expended or available for
3 expenditure in any manner which would permit their substitution
4 for, or a corresponding reduction in, federal funds which would
5 in the absence of such money be available to finance expenditures
6 for the administration of the employment security law, but
7 nothing in this section shall prevent such moneys, except for
8 moneys collected pursuant to section 288.128, from being used as
9 a revolving fund, to cover expenditures, necessary and proper
10 under the law, for which federal funds have been duly requested
11 but not yet received, subject to the charging of such
12 expenditures against such funds when received. Subject to the
13 approval of the director of the department of labor and
14 industrial relations, the moneys in this fund, except for moneys
15 collected pursuant to section 288.128, shall be used by the
16 department of labor and industrial relations for the payment of
17 costs of administration which are found not to have been properly
18 and validly chargeable against federal grants or other funds
19 received for or in the unemployment compensation administration
20 fund. Such moneys, except for moneys collected pursuant to
21 section 288.128, shall be available either to satisfy the
22 obligations incurred by the department of labor and industrial
23 relations for the division directly or by requesting the board of
24 fund commissioners to transfer the required amount from the
25 special employment security fund to the unemployment compensation

1 administration fund. The board of fund commissioners shall upon
2 receipt of a written request of the department of labor and
3 industrial relations make any such transfer. No expenditures of
4 this fund or transfer herein provided, except for moneys
5 collected pursuant to section 288.128, shall be made unless and
6 until the director of the department of labor and industrial
7 relations finds that no other funds are available or can properly
8 be used to finance such expenditures, except that as hereinafter
9 authorized expenditures from such fund may be made for the
10 purpose of acquiring lands and buildings, or for the erection of
11 buildings on lands so acquired, which are deemed necessary by the
12 director of the department of labor and industrial relations for
13 the proper administration of this law. The director of the
14 department of labor and industrial relations shall order the
15 transfer of such funds or the payment of any such obligation and
16 such funds shall be paid by the state treasurer on requisitions
17 drawn by the director of the department of labor and industrial
18 relations directing the state auditor to issue his or her warrant
19 therefor. Any such warrant shall be drawn by the state auditor
20 based upon bills of particulars and vouchers certified by an
21 officer or employee designated by the director of the department
22 of labor and industrial relations. Such certification shall
23 among other things include a duly certified copy of the director
24 of the department of labor and industrial relations' findings
25 hereinbefore referred to. The moneys in this fund, except for

1 moneys collected pursuant to section 288.128, are hereby
2 specifically made available to replace, within a reasonable time,
3 any moneys received by this state pursuant to section 302 of the
4 Federal Social Security Act (42 U.S.C.A. Sec. 502), as amended,
5 which, because of any action or contingency, have been lost or
6 have been expended for purposes other than, or in amounts in
7 excess of, those necessary for the proper administration of the
8 employment security law. The moneys in this fund shall be
9 continuously available to the director of the department of labor
10 and industrial relations for expenditure in accordance with the
11 provisions of this section and shall not lapse at any time or be
12 transferred to any other fund except as herein provided.

13 2. The director of the department of labor and industrial
14 relations, subject to the approval of the board of public
15 buildings, is authorized and empowered to use all or any part of
16 the funds in the special employment security fund, except for
17 moneys collected pursuant to section 288.128, for the purpose of
18 acquiring suitable office space for the division by way of
19 purchase, lease, contract or in any other manner, including the
20 right to use such funds or any part thereof to purchase land and
21 erect thereon such buildings as he or she shall deem necessary or
22 to assist in financing the construction of any building erected
23 by the state of Missouri or any of its agencies wherein available
24 space will be provided for the division under lease or contract
25 between the department of labor and industrial relations and the

1 state of Missouri or such other agency. The director of the
2 department of labor and industrial relations may transfer from
3 the unemployment compensation administration fund to the special
4 employment security fund amounts not exceeding funds specifically
5 available to the department of labor and industrial relations for
6 that purpose, equivalent to the fair reasonable rental value of
7 any land and buildings acquired for its use until such time as
8 the full amount of the purchase price of such land and buildings
9 and such cost of repair and maintenance thereof as was expended
10 from the special employment security fund has been returned to
11 such fund.

12 3. The director of the department of labor and industrial
13 relations may also transfer from the unemployment compensation
14 administration fund to the special employment security fund
15 amounts not exceeding funds specifically available to the
16 department of labor and industrial relations for that purpose,
17 equivalent to the fair reasonable rental value of space used by
18 the department of labor and industrial relations in any building
19 erected by the state of Missouri or any of its agencies until
20 such time as the department of labor and industrial relations'
21 proportionate amount of the purchase price of such building and
22 the department of labor and industrial relations' proportionate
23 amount of such costs of repair and maintenance thereof as was
24 expended from the special employment security fund has been
25 returned to such fund.

1 288.330. 1. Benefits shall be deemed to be due and payable
2 only to the extent that moneys are available to the credit of the
3 unemployment compensation fund and neither the state nor the
4 division shall be liable for any amount in excess of such sums.
5 [Neither the state of Missouri, nor any person or agency acting
6 for it, may under any circumstance, by issuing bonds or otherwise
7 borrow money from any source whatsoever to pay benefits
8 hereunder, except as provided in 42 U.S.C.A. Section 1321.] The
9 governor is authorized to apply for an advance to the state
10 unemployment fund and to accept the responsibility for the
11 repayment of such advance [in accordance with the conditions
12 specified in Title XII of the Social Security Act, as amended,]
13 in order to secure to this state and its citizens the advantages
14 available under the provisions of [such title] federal law.

15 2. (1) The purpose of this subsection is to provide a
16 method of financing the replenishment of the state's unemployment
17 compensation fund as an alternative to borrowing or obtaining
18 advances from the federal unemployment trust fund or for
19 refinancing those loans or advances, and to provide a method
20 through which the state may continue its unemployment
21 compensation program at the least possible cost to the state and
22 its employers.

23 (2) For the purposes of this subsection, "credit
24 instrument" means any type of borrowing obligation issued under
25 this section, including any bonds, commercial line of credit

1 note, tax anticipation note or similar instrument.

2 (3) The governor, lieutenant governor, and attorney general
3 shall constitute the commission of unemployment fund debt which
4 is authorized, by offering for public negotiated sale, to issue,
5 sell, and deliver and execute credit instruments which shall
6 mature no later than ten years after issuance or be outstanding
7 or in force for longer than four years in the name of the
8 commission in an amount determined by the commission not to
9 exceed the total principal for four hundred fifty million dollars
10 of indebtedness that results in reducing or avoiding the need to
11 borrow or obtain an advance under 42 U.S.C., Section 1321, or any
12 similar federal legislation, or in an amount necessary to
13 refinance any borrowing or advance previously made by the state
14 for those purposes. The commission shall make an affirmative
15 finding that the issuance of credit instruments for the purposes
16 established in this section results in a savings to the state and
17 its employers.

18 (4) The commission shall constitute a body corporate and
19 politic. Credit instruments may be issued or loan agreements
20 entered into under the provisions of this legislation under a
21 resolution adopted by the affirmative vote of the majority of the
22 members of the commission and no other proceedings shall be
23 required therefore.

24 (5) The commission shall provide for the payment of the
25 principal of the credit instruments, any redemption premiums, the

1 interest, and costs attributable to the credit instruments being
2 issued or outstanding as provided in this subsection and in
3 section 288.310. Unless the commission directs otherwise, the
4 credit instruments shall be repaid in the same time frame and in
5 the same amounts as would be required for loans issued under 42
6 U.S.C., Section 1321; however, in no case shall bond indebtedness
7 continue beyond five consecutive years.

8 (6) The commission shall, exclusively for the purpose of
9 establishing a debt repayment assessment, irrevocably pledge
10 money received from the contributions received under subsection 2
11 of section 288.121, and shall have authority to impose a debt
12 repayment assessment on all employers in the state equal to at
13 least one hundred twenty-five percent but not to exceed one
14 hundred fifty percent of the debt service requirement of any
15 credit instrument issued or entered into by the commission, as
16 revenue for the payment of credit instruments and deposited in an
17 account created for such purpose in the special employment
18 security fund or other money legally available to it. The
19 commission, or such other advisers as the commission may choose,
20 may prescribe the form, details and incidents of the credit
21 instruments and make the covenants that in its judgment are
22 advisable or necessary properly to secure the payment thereof;
23 but the form, details, incidents and covenants shall not be
24 inconsistent with any of the provisions of this section. If such
25 credit instruments shall be authenticated by the bank or trust

1 company acting as registrar for such by the manual signature of a
2 duly authorized officer or employee thereof, the duly authorized
3 officers of the commission executing and attesting such bonds,
4 may all do so by facsimile signature provided such signatures
5 have been duly filed as provided in the uniform facsimile
6 signature of public officials law, sections 105.273 to 105.278,
7 RSMo, when duly authorized by resolution of the commission and
8 the provisions of section 108.175, RSMo, shall not apply to such
9 credit instruments. The holder or holders of any credit
10 instruments issued hereunder may, by proper civil action at law
11 or inequity, compel the commission and the director of the
12 division of employment security to perform all duties imposed
13 upon it by the provisions of this section, including the
14 collecting of sufficient surcharges on employers and also to
15 enforce the performance of any and all other covenants made by
16 the commission in the issuance of the credit instruments.

17 (7) Any credit instrument issued or entered into under this
18 section shall not be deemed an indebtedness of the state or of
19 any agency, political corporation, or political subdivision of
20 this state or of the commission or of individual members of the
21 commission and shall not be deemed to be an indebtedness within
22 the meaning of any constitutional or statutory limitation upon
23 the incurring of indebtedness. Credit instruments are payable
24 only from revenue provided for under this chapter. Credit
25 instruments shall contain a statement to the effect that:

1 (a) Neither the state nor any agency, political
2 corporation, or political subdivision of the state shall be
3 obligated to pay the principal or interest on the credit
4 instruments except as provided by this section; and

5 (b) Neither the full faith and credit nor the taxing power
6 of the state nor any agency, political corporation, or political
7 subdivision of the state is pledged to the payment of the
8 principal, premium, if any, or interest on the credit instruments
9 except as provided by this section.

10 (8) The owner of any credit instruments issued under this
11 section shall at the time of purchase agree to waive any right of
12 recovery and forever hold harmless the state and any agency,
13 political corporation, or political subdivision thereof. The
14 debt owner shall agree the sole source of revenue for repayment
15 of such credit instruments shall be those revenues derived from
16 contributions received under section 288.128.

17 (9) The state pledges and agrees with the owners of any
18 credit instruments provided issued under this section that the
19 state will not limit or alter the rights vested in the commission
20 to fulfill the terms of any agreements made with the owners or in
21 any way impair the rights and remedies of the owners until the
22 credit instruments are fully discharged except as provided by
23 this section.

24 (10) The commission may provide for the flow of funds and
25 the establishment and maintenance of separate accounts within the

1 special employment security fund, including the interest and
2 sinking account, the reserve account, and other necessary
3 accounts, and may make additional covenants with respect to the
4 credit instruments in the documents, including the authorization
5 of the issuance of bonds as well as refunding bonds, as
6 applicable. The resolutions authorizing the credit instruments
7 may also prohibit the further issuance of credit instruments or
8 other obligations payable from appropriated moneys or may reserve
9 the right to issue additional credit instruments to be payable
10 from appropriated moneys on a parity with or subordinate to the
11 lien and pledge in support of the credit instruments being issued
12 and may contain other provisions and covenants as determined by
13 the commission.

14 (11) The commission may issue credit instruments to refund
15 all or any part of the outstanding borrowing issued under this
16 section including matured but unpaid interest.

17 (12) The credit instruments issued by the commission, any
18 transaction relating to the credit instruments, and profits made
19 from the issuance of credit are free from taxation by the state
20 or by any municipality, court, special district, or other
21 political subdivision of the state.

22 (13) As determined necessary by the commission the proceeds
23 of the credit instruments less the cost of issuance shall be
24 placed in the state's unemployment compensation fund and may be
25 used for the purposes for which that fund may otherwise be used.

1 If those net proceeds are not placed immediately in the
2 unemployment compensation fund they shall be held in the special
3 employment security fund in an account designated for that
4 purpose until they are transferred to the unemployment
5 compensation fund.

6 (14) The commission may enter into any contract or
7 agreement, including fixed or variable rate options, as deemed
8 necessary or desirable to effectuate cost-effective financing
9 hereunder. Such agreements may also include credit enhancement,
10 credit support, or interest rate protection agreements. Any fees
11 or costs associated with such agreements shall be deemed
12 administrative expenses for the purposes of calculating
13 assessments relating to payment of the principal, interest, and
14 administrative expenses related to credit instruments under the
15 provisions of section 288.128.

16 (15) To the extent this section conflicts with other laws
17 the provisions of this section prevail. This section shall not
18 be subject to the provisions of sections 23.250 to 23.298, RSMo.

19 (16) If the United States Secretary of Labor holds that a
20 provision of this subsection does not conform with a federal
21 statute or would result in the loss to the state of any federal
22 funds otherwise available to it the commission may administer
23 this subsection to conform with the federal statute until the
24 general assembly meets in its next regular session and has an
25 opportunity to amend this subsection.

1 (17) (a) As used in this subdivision the term "lender"
2 means any state or national bank.

3 (b) The commission is authorized to enter financial
4 agreements with any lender that result in reducing or avoiding
5 the need to borrow or obtain an advance under 42 U.S.C., Section
6 1321, or any similar federal legislation. The total amount of
7 the outstanding obligation under the agreement shall not exceed
8 the difference of four hundred fifty million dollars and the debt
9 indebtedness incurred under this subsection. In no instance
10 shall such indebtedness under any financial agreement continue
11 for more than five consecutive years. Repayment of obligations
12 to lenders shall be made from the special employment security
13 fund, section 288.310.

14 (18) The commissioner of administration shall provide staff
15 support to the board.

16 (19) No authority to issue credit instruments shall exist
17 after January 1, 2008. No original issue or refunding or
18 refinancing credit instrument, bond, note, financial instrument
19 or loan agreement shall be outstanding after January 1, 2009.

20 (20) The credit instruments entered into under this section
21 may be refunded or refinanced in whole or in part.

22 (21) Nothing in this section shall prohibit the Department
23 of Labor from borrowing from the government of the United States
24 in order to pay unemployment benefits, or taking advantage of
25 available options in borrowing from the government of the United

1 States to minimize or avoid interest if allowed by federal law.

2 3. In event of the suspension of this law, any unobligated
3 funds in the unemployment compensation fund, and returned by the
4 United States Treasurer because such Federal Social Security Act
5 is inoperative, shall be held in custody by the treasurer and
6 under supervision of the division until the legislature shall
7 provide for the disposition thereof. In event no disposition is
8 made by the legislature at the next regular meeting subsequent to
9 suspension of said law, then all unobligated funds shall be
10 returned ratably to those who contributed thereto.

11 288.380. 1. Any agreement by a worker to waive, release,
12 or commute such worker's rights to benefits or any other rights
13 pursuant to this chapter, or pursuant to an employment security
14 law of any other state or of the federal government shall be
15 void. Any agreement by a worker to pay all or any portion of any
16 contributions required shall be void. No employer shall directly
17 or indirectly make any deduction from wages to finance the
18 employer's contributions required from him or her, or accept any
19 waiver of any right pursuant to this chapter by any individual in
20 his or her employ.

21 2. No employing unit or any agent of an employing unit or
22 any other person shall make a false statement or representation
23 knowing it to be false, nor shall knowingly fail to disclose a
24 material fact to prevent or reduce the payment of benefits to any
25 individual, nor to avoid becoming or remaining an employer, nor

1 to avoid or reduce any contribution or other payment required
2 from any employing unit, nor shall willfully fail or refuse to
3 make any contributions or payments nor to furnish any required
4 reports nor to produce or permit the inspection or copying of
5 required records. Each such requirement shall apply regardless
6 of whether it is a requirement of this chapter, of an employment
7 security law of any other state or of the federal government.

8 3. No person shall make a false statement or representation
9 knowing it to be false or knowingly fail to disclose a material
10 fact, to obtain or increase any benefit or other payment
11 pursuant to this chapter, or under an employment security law of
12 any other state or of the federal government either for himself
13 or herself or for any other person.

14 4. No person shall without just cause fail or refuse to
15 attend and testify or to answer any lawful inquiry or to produce
16 books, papers, correspondence, memoranda, and other records, if
17 it is in such person's power so to do in obedience to a subpoena
18 of the director, the commission, an appeals tribunal, or any duly
19 authorized representative of any one of them.

20 5. No individual claiming benefits shall be charged fees of
21 any kind in any proceeding pursuant to this chapter by the
22 division, or by any court or any officer thereof. Any individual
23 claiming benefits in any proceeding before the division or a
24 court may be represented by counsel or other duly authorized
25 agent; but no such counsel or agents shall either charge or

1 receive for such services more than an amount approved by the
2 division.

3 6. No employee of the division or any person who has
4 obtained any list of applicants for work or of claimants for or
5 recipients of benefits pursuant to this chapter shall use or
6 permit the use of such lists for any political purpose.

7 7. Any person who shall willfully violate any provision of
8 this chapter, or of an employment security law of any other state
9 or of the federal government or any rule or regulation, the
10 observance of which is required under the terms of any one of
11 such laws, shall upon conviction be deemed guilty of a
12 misdemeanor and shall be punished by a fine of not less than
13 fifty dollars nor more than one thousand dollars, or by
14 imprisonment in the county jail for not more than six months, or
15 by both such fine and imprisonment, and each such violation or
16 each day such violation continues shall be deemed to be a
17 separate offense.

18 8. In case of contumacy by, or refusal to obey a subpoena
19 issued to, any person, any court of this state within the
20 jurisdiction of which the inquiry is carried on, or within the
21 jurisdiction of which the person guilty of contumacy or refusal
22 to obey is found or resides or transacts business, upon
23 application by the director, the commission, an appeals tribunal,
24 or any duly authorized representative of any one of them shall
25 have jurisdiction to issue to such person an order requiring such

1 person to appear before the director, the commission, an appeals
2 tribunal or any duly authorized representative of any one of
3 them, there to produce evidence if so ordered or there to give
4 testimony touching the matter under investigation or in question;
5 and any failure to obey such order of the court may be punished
6 by the court as a contempt thereof.

7 9. (1) Any individual or employer who receives or denies
8 unemployment benefits by intentionally misrepresenting,
9 misstating, or failing to disclose any material fact has
10 committed fraud. After the discovery of facts indicating fraud,
11 a deputy shall make a written determination that the individual
12 obtained or denied unemployment benefits by fraud and that the
13 individual shall promptly repay the unemployment benefits to the
14 fund. In addition, the deputy shall assess a penalty equal to
15 twenty-five percent of the amount fraudulently obtained or
16 denied. If division records indicate that the individual or
17 employer had a prior established overpayment or record of denial
18 due to fraud, the deputy shall, on the present overpayment or
19 determination, assess a penalty equal to one hundred percent of
20 the amount fraudulently obtained.

21 (2) Unless the individual or employer within thirty
22 calendar days after notice of such determination of overpayment
23 by fraud is either delivered in person or mailed to the last
24 known address of such individual or employer files an appeal from
25 such determination, it shall be final. Proceedings on the appeal

1 shall be conducted in accordance with section 288.190.

2 (3) If the individual or employer fails to repay the
3 unemployment benefits and penalty, assessed as a result of the
4 deputy's determination that the individual or employer obtained
5 or denied unemployment benefits by fraud, such sum shall be
6 collectible in the manner provided in sections 288.160 and
7 288.170 for the collection of past due contributions. If the
8 individual or employer fails to repay the unemployment benefits
9 that the individual or employer denied or obtained by fraud, the
10 division may offset from any future unemployment benefits
11 otherwise payable the amount of the overpayment, or may take such
12 steps as are necessary to effect payment from the individual or
13 employer. Future benefits may not be used to offset the penalty
14 due. Money received in repayment of fraudulently obtained or
15 denied unemployment benefits and penalties shall first be applied
16 to the unemployment benefits overpaid, then to the penalty amount
17 due. Payments made toward the penalty amount due shall be
18 credited to the special employment security fund.

19 (4) If fraud or evasion on the part of any employer is
20 discovered by the division, the employer shall be subject to the
21 fraud provisions of subsection 4 of section 288.160.

22 (5) The provisions of this subsection shall become
23 effective July 1, 2005.

24 10. An individual who willfully fails to disclose amounts
25 earned during any week with respect to which benefits are claimed

1 by him or her, willfully fails to disclose or has falsified as to
2 any fact which would have disqualified him or her or rendered him
3 or her ineligible for benefits during such week, or willfully
4 fails to disclose a material fact or makes a false statement or
5 representation in order to obtain or increase any benefit
6 pursuant to this chapter, shall forfeit all of his or her benefit
7 rights, and all of his or her wage credits accrued prior to the
8 date of such failure to disclose or falsification shall be
9 canceled, and any benefits which might otherwise have become
10 payable to him or her subsequent to such date based upon such
11 wage credits shall be forfeited; except that, the division may,
12 upon good cause shown, modify such reduction of benefits and
13 cancellation of wage credits. It shall be presumed that such
14 failure or falsification was willful in any case in which an
15 individual signs and certifies a claim for benefits and fails to
16 disclose or falsifies as to any fact relative to such claim.

17 [10.] 11. (1) Any assignment, pledge, or encumbrance of
18 any rights to benefits which are or may become due or payable
19 pursuant to this chapter shall be void; and such rights to
20 benefits shall be exempt from levy, execution, attachment, or any
21 other remedy whatsoever provided for the collection of debt; and
22 benefits received by any individual, so long as they are not
23 mingled with other funds of the recipient, shall be exempt from
24 any remedy whatsoever for the collection of all debts except
25 debts incurred for necessities furnished to such individual or

1 the individual's spouse or dependents during the time such
2 individual was unemployed. Any waiver of any exemption provided
3 for in this subsection shall be void; except that this section
4 shall not apply to:

5 (a) Support obligations, as defined pursuant to paragraph
6 (g) of subdivision (2) of this subsection, which are being
7 enforced by a state or local support enforcement agency against
8 any individual claiming unemployment compensation pursuant to
9 this chapter; or

10 (b) Uncollected overissuances (as defined in section
11 13(c)(1) of the Food Stamp Act of 1977) of food stamp coupons;

12 (2) (a) An individual filing a new claim for unemployment
13 compensation shall, at the time of filing such claim, disclose
14 whether or not the individual owes support obligations, as
15 defined pursuant to paragraph (g) of this subdivision or owes
16 uncollected overissuances of food stamp coupons (as defined in
17 section 13(c)(1) of the Food Stamp Act of 1977). If any such
18 individual discloses that he or she owes support obligations or
19 uncollected overissuances of food stamp coupons, and is
20 determined to be eligible for unemployment compensation, the
21 division shall notify the state or local support enforcement
22 agency enforcing the support obligation or the state food stamp
23 agency to which the uncollected food stamp overissuance is owed
24 that such individual has been determined to be eligible for
25 unemployment compensation;

1 (b) The division shall deduct and withhold from any
2 unemployment compensation payable to an individual who owes
3 support obligations as defined pursuant to paragraph (g) of this
4 subdivision or who owes uncollected food stamp overissuances:

5 a. The amount specified by the individual to the division
6 to be deducted and withheld pursuant to this paragraph if neither
7 subparagraph b. nor subparagraph c. of this paragraph is
8 applicable; or

9 b. The amount, if any, determined pursuant to an agreement
10 submitted to the division pursuant to Section 454(20)(B)(i) of
11 the Social Security Act by the state or local support enforcement
12 agency, unless subparagraph c. of this paragraph is applicable;
13 or the amount (if any) determined pursuant to an agreement
14 submitted to the state food stamp agency pursuant to Section
15 13(c)(3)(a) of the Food Stamp Act of 1977; or

16 c. Any amount otherwise required to be so deducted and
17 withheld from such unemployment compensation pursuant to properly
18 served legal process, as that term is defined in Section 459(i)
19 of the Social Security Act; or any amount otherwise required to
20 be deducted and withheld from the unemployment compensation
21 pursuant to Section 13(c)(3)(b) of the Food Stamp Act of 1977;

22 (c) Any amount deducted and withheld pursuant to paragraph
23 (b) of this subdivision shall be paid by the division to the
24 appropriate state or local support enforcement agency or state
25 food stamp agency;

1 (d) Any amount deducted and withheld pursuant to paragraph
2 (b) of this subdivision shall, for all purposes, be treated as if
3 it were paid to the individual as unemployment compensation and
4 paid by such individual to the state or local support enforcement
5 agency in satisfaction of the individual's support obligations or
6 to the state food stamp agency to which the uncollected
7 overissuance is owed as repayment of the individual's uncollected
8 overissuance;

9 (e) For purposes of paragraphs (a), (b), (c), and (d) of
10 this subdivision, the term "unemployment compensation" means any
11 compensation payable pursuant to this chapter, including amounts
12 payable by the division pursuant to an agreement pursuant to any
13 federal law providing for compensation, assistance, or allowances
14 with respect to unemployment;

15 (f) Deductions will be made pursuant to this section only
16 if appropriate arrangements have been made for reimbursement by
17 the state or local support enforcement agency, or the state food
18 stamp agency, for the administrative costs incurred by the
19 division pursuant to this section which are attributable to
20 support obligations being enforced by the state or local support
21 enforcement agency or which are attributable to uncollected
22 overissuances of food stamp coupons;

23 (g) The term "support obligations" is defined for purposes
24 of this subsection as including only obligations which are being
25 enforced pursuant to a plan described in Section 454 of the

1 Social Security Act which has been approved by the Secretary of
2 Health and Human Services pursuant to Part D of Title IV of the
3 Social Security Act;

4 (h) The term "state or local support enforcement agency",
5 as used in this subsection, means any agency of a state, or
6 political subdivision thereof, operating pursuant to a plan
7 described in paragraph (g) of this subdivision;

8 (i) The term "state food stamp agency" as used in this
9 subsection, means any agency of a state, or political subdivision
10 thereof, operating pursuant to a plan described in the Food Stamp
11 Act of 1977;

12 (j) The director may prescribe the procedures to be
13 followed and the form and contents of any documents required in
14 carrying out the provisions of this subsection;

15 (k) The division shall comply with the following priority
16 when deducting and withholding amounts from any unemployment
17 compensation payable to an individual:

18 a. Before withholding any amount for child support
19 obligations or uncollected overissuances of food stamp coupons,
20 the division shall first deduct and withhold from any
21 unemployment compensation payable to an individual the amount, as
22 determined by the division, owed pursuant to subsection 11 or 12
23 of this section;

24 b. If, after deductions are made pursuant to subparagraph
25 a. of paragraph (k) of this subdivision, an individual has

1 remaining unemployment compensation amounts due and owing, and
2 the individual owes support obligations or uncollected
3 overissuances of food stamp coupons, the division shall first
4 deduct and withhold any remaining unemployment compensation
5 amounts for application to child support obligations owed by the
6 individual;

7 c. If, after deductions are made pursuant to subparagraphs
8 a. and b. of paragraph (k) of this subdivision, an individual has
9 remaining unemployment compensation amounts due and owing, and
10 the individual owes uncollected overissuances of food stamp
11 coupons, the division shall deduct and withhold any remaining
12 unemployment compensation amounts for application to uncollected
13 overissuances of food stamp coupons owed by the individual.

14 [11.] 12. Any person who, by reason of the nondisclosure or
15 misrepresentation by such person or by another of a material
16 fact, has received any sum as benefits pursuant to this chapter
17 while any conditions for the receipt of benefits imposed by this
18 chapter were not fulfilled in such person's case, or while he or
19 she was disqualified from receiving benefits, shall, in the
20 discretion of the division, either be liable to have such sums
21 deducted from any future benefits payable to such person pursuant
22 to this chapter or shall be liable to repay to the division for
23 the unemployment compensation fund a sum equal to the amounts so
24 received by him or her, and such sum shall be collectible in the
25 manner provided in sections 288.160 and 288.170 for the

1 collection of past due contributions.

2 [12.] 13. Any person who, by reason of any error or
3 omission or because of a lack of knowledge of material fact on
4 the part of the division, has received any sum of benefits
5 pursuant to this chapter while any conditions for the receipt of
6 benefits imposed by this chapter were not fulfilled in such
7 person's case, or while such person was disqualified from
8 receiving benefits, shall after an opportunity for a fair hearing
9 pursuant to subsection 2 of section 288.190 have such sums
10 deducted from any further benefits payable to such person
11 pursuant to this chapter, provided that the division may elect
12 not to process such possible overpayments where the amount of
13 same is not over twenty percent of the maximum state weekly
14 benefit amount in effect at the time the error or omission was
15 discovered. Recovering overpaid unemployment compensation
16 benefits which are a result of error or omission on the part of
17 the claimant shall be pursued by the division through billing and
18 setoffs against state income tax refunds.

19 [13.] 14. Any person who has received any sum as benefits
20 under the laws of another state, or under any unemployment
21 benefit program of the United States administered by another
22 state while any conditions for the receipt of benefits imposed by
23 the law of such other state were not fulfilled in his or her
24 case, shall after an opportunity for a fair hearing pursuant to
25 subsection 2 of section 288.190 have such sums deducted from any

1 further benefits payable to such person pursuant to this chapter,
2 but only if there exists between this state and such other state
3 a reciprocal agreement under which such entity agrees to recover
4 benefit overpayments, in like fashion, on behalf of this state.

5 288.381. 1. The provisions of subsection 6 of section
6 288.070 notwithstanding, benefits paid to a claimant pursuant to
7 subsection 5 of section 288.070 to which the claimant was not
8 entitled based on a subsequent determination, redetermination or
9 decision which has become final, shall be collectible by the
10 division as provided in subsections [11] 12 and [12] 13 of
11 section 288.380.

12 2. Notwithstanding any other provision of law to the
13 contrary, when a claimant who has been separated from his
14 employment receives benefits under this chapter and subsequently
15 receives a back pay award pursuant to action by a governmental
16 agency, court of competent jurisdiction or as a result of
17 arbitration proceedings, for a period of time during which no
18 services were performed, the division shall establish an
19 overpayment equal to the lesser of the amount of the back pay
20 award or the benefits paid to the claimant which were
21 attributable to the period covered by the back pay award. After
22 the claimant has been provided an opportunity for a fair hearing
23 under the provision of section 288.190, the employer shall
24 withhold from the employee's backpay award the amount of benefits
25 so received and shall pay such amount to the division and

1 separately designate such amount.

2 3. For the purposes of subsection 2 of this section, the
3 division shall provide the employer with the amount of benefits
4 paid to the claimant.

5 4. Any individual, company, association, corporation,
6 partnership, bureau, agency or the agent or employee of the
7 foregoing who interferes with, obstructs, or otherwise causes an
8 employer to fail to comply with the provisions of subsection 2 of
9 this section shall be liable for damages in the amount of three
10 times the amount owed by the employer to the division. The
11 division shall proceed to collect such damages under the
12 provisions of sections 288.160 and 288.170.

13 288.382. The division may, for good cause, determine as
14 uncollectible and purge from its records any benefit overpayment
15 as mentioned in subsections [11] 12 and [12] 13 of section
16 288.380 which remains unpaid after the expiration of five years
17 after the date of the determination which established such
18 overpayment.

19 288.395. Any person or entity perpetrating a fraud or
20 misrepresentation under this chapter for which a penalty has not
21 herein been specifically provided, shall be guilty of a class A
22 misdemeanor and, in addition, shall be liable to this state for a
23 civil penalty not to exceed double the value of the fraud. Any
24 person or entity who has previously pled guilty to or has been
25 found guilty of perpetrating a fraud or misrepresentation under

1 this chapter and who subsequently violated any such provisions
2 shall be guilty of a class D felony.

3 288.397. The division shall send on or before September 30,
4 2004, to all employing units a report containing a summary of
5 changes enacted in this act including but not limited to changes
6 in the tax rate, contribution rate, taxable wage base, temporary
7 solvency charges, benefit or eligibility charges, and other
8 pertinent information to enable the employing units to comply
9 with the changes made.

10 288.398. 1. The division of employment security may
11 contract with one or more consumer reporting agencies with
12 preference given to those agencies which maintain offices within
13 the state of Missouri to provide secure electronic access to
14 information provided in the quarterly wage report to the division
15 of employment security by employing units. The consumer
16 reporting agency shall be limited to use of such information to
17 those permitted under Section 604 of the federal Fair Credit
18 Reporting Act, 15 U.S.C. 1681b.

19 2. The information provided to a consumer reporting agency
20 shall be limited to the amount of wages reported by each
21 employing unit, with the employing unit's name and address, for
22 each of or up to the last eight quarters. For the purposes of
23 this section "consumer reporting agency" has the meaning assigned
24 by Section 603(f) of the Fair Credit Reporting Act, 15 U.S.C.
25 1681f.

1 3. The information is subject to the privacy rules of this
2 state and the federal Fair Credit Reporting Act in addition to
3 this section. The consumer reporting agency shall require that
4 any user of the information shall, prior to obtaining the wage
5 report information, obtain a written consent from the individual
6 to whom that wage report information pertains.

7 4. The written consent shall prominently contain language
8 specifying the following:

9 (1) The consent to disclose is voluntary and refusal to
10 consent to disclosure of state wage information shall not be the
11 basis for the denial of credit;

12 (2) If consent is granted, the information shall be
13 released to specified parties;

14 (3) Authorization by the individual is necessary for the
15 release of wage and employment history information;

16 (4) The specific application or transaction for the sole
17 purpose of which release is made;

18 (5) Division of employment security files containing wage
19 and employment history information submitted by employers may be
20 accessed; and

21 (6) The identity and address of parties authorized to
22 receive the released information.

23 5. The consumer reporting agency shall require that the
24 information released shall be used only to verify the accuracy of
25 the wage or employment information previously provided by an

1 individual in connection with a specific transaction to satisfy
2 its user's standard underwriting requirements or those imposed
3 upon the user, and to satisfy user's obligations, under
4 applicable state or federal fair credit reporting laws.

5 6. The division of employment security shall establish
6 minimum audit, security, net worth, and liability insurance
7 standards, technological requirements, and any other terms and
8 conditions deemed necessary in the discretion of the division to
9 safeguard the confidentiality of the information and to otherwise
10 serve the public interest. The division shall not pay any costs
11 associated with the establishment or maintenance of the access
12 provided for by this subsection, including but not limited to the
13 costs of any audits of the consumer reporting agency or users by
14 the division. The division may void any contract authorized by
15 this section if the contractor is not complying with this
16 section. Except in cases of willful and wanton misconduct, the
17 state and division is immune from any liability in connection
18 with information provided under this section, including but not
19 limited to liability with regard to the accuracy or use of the
20 information. Any fees received by the division of employment
21 security from a consumer reporting agency under this section
22 shall be deposited in the unemployment compensation fund and
23 dedicated solely for benefit payments.

24 7. Any person or entity who willfully fails to comply with
25 any requirement imposed under this subsection with respect to any

1 consumer is liable in Missouri state courts to that consumer to
2 the same extent as provided for in Section 616 of the federal
3 Fair Credit Reporting Act, 15 U.S.C. 1681n.

4 8. A consumer may bring an action in a circuit court to
5 enjoin a violation of this act.

6 9. Any person who knowingly and willfully obtains
7 information under this subsection from a consumer reporting
8 agency under false pretenses shall be punished to the same extent
9 as provided under Section 619 of the federal Fair Credit
10 Reporting Act, 15 U.S.C. 1681q.

11 10. If the completeness or accuracy of any item of
12 information in a consumer's file at a consumer reporting agency
13 obtained under this subsection is disputed, the dispute
14 resolution shall be handled according to Section 611 of the
15 federal Fair Credit Reporting Act, 15 U.S.C. 1681l.

16 288.500. 1. There is created under this section a
17 voluntary "Shared Work Unemployment Compensation Program". In
18 connection therewith, the division may adopt rules and establish
19 procedures, not inconsistent with this section, which are
20 necessary to administer this program.

21 2. As used in this section, the following terms mean:

22 (1) "Affected unit", a specified department, shift, or
23 other unit of three or more employees which is designated by an
24 employer to participate in a shared work plan;

25 (2) "Division", the division of employment security;

1 (3) "Fringe benefit", health insurance, a retirement
2 benefit received under a pension plan, a paid vacation day, a
3 paid holiday, sick leave, and any other analogous employee
4 benefit that is provided by an employer;

5 (4) "Normal weekly hours of work", as to any individual,
6 the lesser of forty hours or the average obtained by dividing the
7 total number of hours worked per week in the preceding
8 twelve-week period by the number twelve;

9 (5) "Participating employee", an employee who works a
10 reduced number of hours under a shared work plan;

11 (6) "Participating employer", an employer who has a shared
12 work plan in effect;

13 (7) "Shared work benefit", an unemployment compensation
14 benefit that is payable to an individual in an affected unit
15 because the individual works reduced hours under an approved
16 shared work plan;

17 (8) "Shared work plan", a program for reducing unemployment
18 under which employees who are members of an affected unit share
19 the work remaining after a reduction in their normal weekly hours
20 of work;

21 (9) "Shared work unemployment compensation program", a
22 program designed to reduce unemployment and stabilize the work
23 force by allowing certain employees to collect unemployment
24 compensation benefits if the employees share the work remaining
25 after a reduction in the total number of hours of work and a

1 corresponding reduction in wages.

2 3. An employer who wishes to participate in the shared work
3 unemployment compensation program established under this section
4 shall submit a written shared work plan in a form acceptable to
5 the division for approval. As a condition for approval by the
6 division, a participating employer shall agree to furnish the
7 division with reports relating to the operation of the shared
8 work plan as requested by the division. The employer shall
9 monitor and evaluate the operation of the established shared work
10 plan as requested by the division and shall report the findings
11 to the division.

12 4. The division may approve a shared work plan if:

13 (1) The employer has filed all reports required to be filed
14 under this chapter for all past and current periods and has paid
15 all contributions due for all past and current periods;

16 (2) The shared work plan applies to and identifies a
17 specified affected unit;

18 (3) The employees in the affected unit are identified by
19 name and Social Security number;

20 (4) The shared work plan reduces the normal weekly hours of
21 work for an employee in the affected unit by not less than twenty
22 percent and not more than forty percent;

23 (5) The shared work plan applies to at least ten percent of
24 the employees in the affected unit;

25 (6) The shared work plan describes the manner in which the

1 participating employer treats the fringe benefits of each
2 employee in the affected unit; and

3 (7) The employer certifies that the implementation of a
4 shared work plan and the resulting reduction in work hours is in
5 lieu of temporary layoffs that would affect at least ten percent
6 of the employees in the affected unit and that would result in an
7 equivalent reduction in work hours.

8 5. If any of the employees who participate in a shared work
9 plan under this section are covered by a collective bargaining
10 agreement, the shared work plan shall be approved in writing by
11 the collective bargaining agent.

12 6. No shared work plan which will subsidize seasonal
13 employers during the off-season or subsidize employers, at least
14 fifty percent of the employees of which have normal weekly hours
15 of work equaling thirty-two hours or less, shall be approved by
16 the division. No shared work plan benefits will be initiated for
17 pay periods when the reduced hours reflect holiday earnings
18 already committed to be paid by the employer.

19 7. The division shall approve or deny a shared work plan
20 not later than the thirtieth day after the day on which the
21 shared work plan is received by the division. The division shall
22 approve or deny a plan in writing. If the division denies a
23 plan, the division shall notify the employer of the reasons for
24 the denial. Approval or denial of a plan by the division shall
25 be final and such determination shall be subject to review in the

1 manner otherwise provided by law. If approval of a plan is
2 denied by the division, the employer may submit a new plan to the
3 division for consideration no sooner than forty-five calendar
4 days following the date on which the division disapproved the
5 employer's previously submitted plan.

6 8. The division may revoke approval of a shared work plan
7 and terminate the plan if it determines that the shared work plan
8 is not being executed according to the terms and intent of the
9 shared work unemployment compensation program, or if it is
10 determined by the division that the approval of the shared work
11 plan was based, in whole or in part, upon information contained
12 in the plan which was either false or substantially misleading.

13 9. Each shared work plan approved by the division shall
14 become effective on the first day of the week in which it is
15 approved by the division or on a later date as specified in the
16 shared work plan. Each shared work plan approved by the division
17 shall expire on the last day of the twelfth full calendar month
18 after the effective date of such shared work plan.

19 10. An employer may modify a shared work plan created under
20 this section to meet changed conditions if the modification
21 conforms to the basic provisions of the shared work plan as
22 originally approved by the division. The employer shall report
23 the changes made to the plan in writing to the division at least
24 seven days before implementing such changes. The division shall
25 reevaluate the shared work plan and may approve the modified

1 shared work plan if it meets the requirements for approval under
2 subsection 4 of this section. The approval of a modified shared
3 work plan shall not, under any circumstances, affect the
4 expiration date originally set for the shared work plan. If
5 modifications cause the shared work plan to fail to meet the
6 requirements for approval, the division shall deny approval of
7 the modifications as provided in subsection 7 of this section.

8 11. Notwithstanding any other provisions of this chapter,
9 an individual is unemployed for the purposes of this section in
10 any week in which the individual, as an employee in an affected
11 unit, works less than his normal weekly hours of work in
12 accordance with an approved shared work plan in effect for that
13 week.

14 12. An individual who is otherwise entitled to receive
15 regular unemployment insurance benefits under this chapter shall
16 be eligible to receive shared work benefits with respect to any
17 week in which the division finds that:

18 (1) The individual is employed as a member of an affected
19 unit subject to a shared work plan that was approved before the
20 week in question and is in effect for that week;

21 (2) Notwithstanding the provisions of subdivision (2) of
22 subsection 1 of section 288.040, the individual is able to work,
23 available for work and works all available hours with the
24 participating employer;

25 (3) The individual's normal weekly hours of work have been

1 reduced by at least twenty percent but not more than forty
2 percent, with a corresponding reduction in wages; and

3 (4) The individual has served a "waiting week" as defined
4 in section 288.030.

5 13. A waiting week served under the provisions of
6 subdivision (3) of subsection 1 of section 288.040 shall serve to
7 meet the requirements of subdivision (4) of subsection 12 of this
8 section and a waiting week served under the provisions of
9 subdivision (4) of subsection 12 of this section shall serve to
10 meet the requirements of section 288.040. [If the waiting week
11 becomes payable, it shall be paid according to the law governing
12 the program under which it was served.] Notwithstanding any
13 other provisions of this chapter, an individual who files a new
14 initial claim during the pendency of the twelve-month period in
15 which a shared work plan is in effect shall serve a waiting week
16 whether or not the individual has served a waiting week under
17 this subsection.

18 14. The division shall not deny shared work benefits for
19 any week to an otherwise eligible individual by reason of the
20 application of any provision of this chapter that relates to
21 availability for work, active search for work, or refusal to
22 apply for or accept work with an employer other than the
23 participating employer under the plan.

24 15. The division shall pay an individual who is eligible
25 for shared work benefits under this section a weekly shared work

1 benefit amount equal to the individual's regular weekly benefit
2 amount for a period of total unemployment less any deductible
3 amounts under this chapter except wages received from any
4 employer, multiplied by the full percentage of reduction in the
5 individual's hours as set forth in the employer's shared work
6 plan. If the shared work benefit amount calculated under this
7 subsection is not a multiple of one dollar, the division shall
8 round the amount so calculated to the next lowest multiple of one
9 dollar. An individual shall be ineligible for shared work
10 benefits for any week in which the individual performs paid work
11 for the participating employer in excess of the reduced hours
12 established under the shared work plan.

13 16. An individual shall not be entitled to receive shared
14 work benefits and regular unemployment compensation benefits in
15 an aggregate amount which exceeds the maximum total amount of
16 benefits payable to that individual in a benefit year as provided
17 under section 288.038. Notwithstanding any other provisions of
18 this chapter, an individual shall not be eligible to receive
19 shared work benefits for more than twenty-six calendar weeks
20 during the twelve-month period of the shared work plan. No week
21 shall be counted as a week of unemployment for the purposes of
22 this subsection unless it occurs within the twelve-month period
23 of the shared work plan.

24 17. Notwithstanding any other provision of this chapter,
25 all benefits paid under a shared work plan, which are chargeable

1 to the participating employer or any other base period employer
2 of a participating employee shall be charged to the account of
3 the participating employer under the plan.

4 18. An individual who has received all of the shared work
5 benefits and regular unemployment compensation benefits available
6 in a benefit year is an exhaustee under section 288.062 and is
7 entitled to receive extended benefits under section 288.062 if
8 the individual is otherwise eligible under that section.

9 288.501. 1. There is hereby created a "Missouri State
10 Unemployment Council". The council shall consist of nine
11 appointed voting members and two appointed nonvoting members.
12 All appointees shall be persons whose training and experience
13 qualify them to deal with the difficult problems of unemployment
14 compensation, particularly legal, accounting, actuarial,
15 economic, and social aspects of unemployment compensation.

16 (1) Three voting members shall be appointed to the council
17 by the governor. One voting member shall be appointed on account
18 of his or her vocation, employment, or affiliations being classed
19 as representative of employers. One voting member shall be
20 appointed on account of his or her vocation, employment, or
21 affiliations being classed as representative of employees. One
22 voting member shall be appointed to represent the public interest
23 separate from employee or employer representation.

24 (2) Three voting members and one nonvoting member shall be
25 appointed to the council by the speaker of the house of

1 representatives. One voting member shall be appointed on account
2 of his or her vocation, employment, or affiliations being classed
3 as representative of employers that employ twenty or less
4 employees. One voting member shall be appointed on account of
5 his or her vocation, employment, or affiliations being classed as
6 representative of employees. One voting member shall be
7 appointed to represent the public interest separate from employee
8 or employer representation. One nonvoting member shall be
9 appointed from the house of representatives.

10 (3) Three voting members and one nonvoting member shall be
11 appointed to the council by the president pro tem of the senate.
12 One voting member shall be appointed on account of his or her
13 vocation, employment, or affiliations being classed as
14 representative of employers. One voting member shall be
15 appointed on account of his or her vocation, employment, or
16 affiliations being classed as representative of employees. One
17 voting member shall be appointed to represent the public interest
18 separate from employee or employer representation. One nonvoting
19 member shall be appointed from the senate.

20 2. The council shall organize itself and select a
21 chairperson or co-chairpersons and other officers from the nine
22 voting members. Six voting members shall constitute a quorum and
23 the council shall act only upon the affirmative vote of at least
24 five of the voting members. The council shall meet no less than
25 four times yearly. Members of the council shall serve without

1 compensation, but are to be reimbursed the amount of actual
2 expenses. Actual expenses shall be paid from the special
3 employment security fund under section 288.310.

4 3. The division shall provide professional and clerical
5 assistance as needed for regularly scheduled meetings.

6 4. Each nonvoting member shall serve for a term of four
7 years or until he or she is no longer a member of the general
8 assembly whichever occurs first. A nonvoting member's term shall
9 be a maximum of four years. Each voting member shall serve for a
10 term of three years. For the initial appointment, the governor-
11 appointed employer representative, the speaker of the house-
12 appointed employee representative, and the president pro tem of
13 the senate-appointed public interest representative shall serve
14 an initial term of one year. For the initial appointment, the
15 governor-appointed employee representative, the speaker of the
16 house-appointed public interest representative, and the president
17 pro tem of the senate-appointed employer representative shall
18 serve an initial term of two years. At the end of a voting
19 member's term he or she may be reappointed; however, he or she
20 shall serve no more than two terms excluding the initial term for
21 a maximum of eight years.

22 5. The council shall advise the division in carrying out
23 the purposes of this chapter. The council shall submit annually
24 by January fifteenth to the governor and the general assembly its
25 recommendations regarding amendments of this chapter, the status

1 of unemployment insurance, the projected maintenance of the
2 solvency of unemployment insurance, and the adequacy of
3 unemployment compensation.

4 6. The council shall present to the division every proposal
5 of the council for changes in this chapter and shall seek the
6 division's concurrence with the proposal. The division shall
7 give careful consideration to every proposal submitted by the
8 council for legislative or administrative action and shall review
9 each legislative proposal for possible incorporation into
10 department of labor and industrial relations recommendations.

11 7. The council shall have access to only the records of the
12 division that are necessary for the administration of this
13 chapter and to the reasonable services of the employees of the
14 division. It may request the director or any of the employees
15 appointed by the director or any employee subject to this
16 chapter, to appear before it and to testify relative to the
17 functioning of this chapter and to other relevant matters. The
18 council may conduct research of its own, make and publish
19 reports, and recommend to the division needed changes in this
20 chapter or in the rules of the division as it considers
21 necessary.

22 8. The council, unless prohibited by a concurrent
23 resolution of the general assembly, shall be authorized to
24 commission an outside study of the solvency, adequacy, and
25 staffing and operational efficiency of the Missouri unemployment

1 system. The study shall be conducted every five years, the first
2 being conducted in fiscal year 2005. The study shall be funded
3 subject to appropriation from the special employment security
4 fund under section 288.310.

5 288.502. If any provision of this act is found by a court
6 of competent jurisdiction to be invalid or unconstitutional it is
7 the stated intent of the legislature that the legislature would
8 have approved the remaining portions of the act, and the
9 remaining portions of the act shall remain in full force and
10 effect.

11 Section B. Because immediate action is necessary to reduce
12 or avoid the need to borrow or obtain advances under 42 U.S.C.,
13 Section 1321, section A of this act is deemed necessary for the
14 immediate preservation of the public health, welfare, peace, and
15 safety, and is hereby declared to be an emergency act within the
16 meaning of the constitution, and section A of this act shall be
17 in full force and effect upon its passage and approval.